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605727

B I L L S,

PUBLIC:

FIVE VOLUMES.

—*(1.)*—

ACCIDENTS COMPENSATION

TO

CUSTOMS AND INLAND REVENUE.

Session

5 February —— 28 *July* 1863.

VOL. I.

1863.

B I L L S:

1863.

FIVE VOLUMES:—CONTENTS OF THE

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30 *April* 1863. 26 Vict.

A

B I L L

TO

Regulate the Compensation for Accidents.

WHEREAS it is expedient to regulate the Compensation payable to Passengers injured by Accidents, and payable to the Representatives of Persons killed by Accidents: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The word "Passenger" when used in this Act shall mean and include any Person contracted to be carried by any Railway Company or Shipowner: Interpretation: "Passenger:"

The Expression "Railway Company" shall include any Person being the Owner or Lessee of, or any Person working, any Railway constructed or carried on under the Powers of any Act of Parliament: "Railway Company:"

The Word "Shipowner" shall include every Person authorized to act as Agent for the Owner or entitled to receive the Passage Money for the Conveyance of any Passenger. "Shipowner."

2. No Railway Company shall be liable to pay any larger Sums than the following in respect of any Passenger killed or injured, unless Liability of Railway Companies.

unless such Passenger be insured as herein-after provided; that is to say, no greater Sum, in respect of any First-class Passenger, than *Four hundred* Pounds; in respect of any Second-class Passenger, than *Three hundred* Pounds; in respect of any Third-class Passenger, than *Two hundred* Pounds.

Providing for Insurance of Passengers by Railways.

3. It shall be lawful for any Passenger to demand that the Railway Company at whose Office he is booked shall (in addition to the Amount of Compensation herein-before limited) insure him against Injury or Death consequent upon any Accident during his Journey, and the said Company shall insure him accordingly; and the following Conditions shall apply to such Insurances:

1. No Company shall be required to insure any Person against Injuries or Death to a greater Amount than *Three thousand* Pounds:
2. The Premiums to be paid to Railway Companies for such Insurance against Injuries or Death shall not exceed for *Five hundred* Pounds, for *One thousand* Pounds, for *Two thousand* Pounds, and for *Three thousand* Pounds:
3. With respect to Passengers holding annual or periodical Tickets the Premiums for Insurance shall not exceed such Rates as the Board of Trade shall approve:
4. The Company insuring shall and may make Byelaws or Regulations, to be approved by the Board of Trade, as to the Times when such Insurances shall be applied for, and the Mode of entering into the same.

As to Shipowners.

4. Subject to the Proviso herein-after contained, no Shipowner shall be liable to pay any greater Sum than *Two hundred* Pounds in respect to any Passenger killed or injured, unless such Passenger be insured as herein-after mentioned.

Providing for Insurance of Passengers by Ships.

5. It shall be lawful for any Passenger to demand that the Shipowner to whom he pays his Passage Money shall, (in addition to the Compensation herein-before limited,) insure him against Injury or Death consequent upon any Accident during his Voyage; and (subject to the Proviso herein-after contained) the said Shipowner shall insure him accordingly to any Amount not exceeding *Two thousand* Pounds, at such Rates and subject to such Conditions as the Board of Trade shall from Time to Time approve: Provided that any Shipowner may refuse to insure the Passengers by any or all of his Ships; but if he shall so refuse he shall not with respect to such Passengers be entitled to the Benefit of the Restrictions and Provisions of this Act.

6. This

Name and Commencement of Act.

6. This Act may be cited as "The Accidents Compensation Act, 1863," and it shall come into operation on the *First* Day of *September* One thousand eight hundred and *sixty-three*.

Not to apply to Servants of Railway Companies or Shipowners.

7. Nothing in this Act contained shall alter or affect the existing Rights and Liabilities of Railway Companies and Shipowners with respect to their own Officers or Servants.

Accidents Compensation.

A

BILL

To regulate the Compensation for Accidents.

(*Prepared and brought in by Sir James Fergusson and Mr. Thompson.*)

Ordered, by The House of Commons, *to be Printed,* 30 *April* 1863.

[Bill 103.]

Under 1 *oz.*

2 *March* 1863. 26 Vict.

A

B I L L

TO

Alter and amend the Procedure and Practice of the Court of Admiralty in Ireland.

WHEREAS it is expedient to regulate the Jurisdiction and amend the Practice of the High Court of Admiralty of Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. This Act may be cited for all Purposes as the "Admiralty Court of Ireland Act, 1863." Short Title of Act.

2. In the Interpretation, and for the Purposes of this Act (if not inconsistent with the Context or Subject) the following Terms shall have the respective Meanings herein-after assigned to them; that is to say, Interpretation of Terms.

"Ship" shall include any Description of Vessel used in Navigation not propelled by Oars:

"Cause" shall include any Cause, Suit, Action, or other Proceeding in the High Court of Admiralty of Ireland:

"The Court of Admiralty" shall mean the High Court of Admiralty of Ireland.

Commencement of Act.

3. This Act shall come into operation, except where otherwise specially provided, on the *Day of* *One thousand eight hundred and sixty-*

Parts of Acts hereby repealed.

4. There shall be hereby repealed the several Parts of Acts set forth in the Schedule hereto to the Extent to which such Parts of Acts are therein expressed to be repealed, and all such Provisions of any other Acts, or of any Charters, and all such Laws and Customs or Rules as are inconsistent with the Provisions of this Act.

Jurisdiction in Cases of Salvage.

5. The Court of Admiralty shall have full Jurisdiction to hear and decide all Claims and Demands whatsoever in the Nature of Salvage for Services rendered to or Damage received by any Ship, or in the Nature of Towage or Pilotage, and to enforce the Payment thereof, whether such Ship may have been within the Body of a County or on the High Seas at the Time when the Services were rendered or Damage received in respect of which such Claims are made.

Jurisdiction as to Claims for Salvage of Life.

6. The Court of Admiralty shall have Jurisdiction to take cognizance of and decide all Claims of Salvage in respect of the Preservation of Life under the Provisions of "The Merchant Shipping Act, 1854," and "The Merchant Shipping Amendment Act, 1862," and to enforce the Payment thereof.

As to Claims for building, equipping, or repairing of Ships.

7. The Court of Admiralty shall have Jurisdiction over any Claim for the building, equipping, or repairing of any Ship, if at the Time of the Institution of the Cause the Ship or the Proceeds thereof are under Arrest of the Court.

As to Claim for Damage of Cargo imported.

8. The Court of Admiralty shall have Jurisdiction over any Claim by the Owner or Consignee or Assignee of any Bill of Lading of any Goods carried into any Port in Ireland in any Ship for Damage done to the Goods, or any Part thereof, by the Negligence or Misconduct of, or for any Breach of Duty or Breach of Contract, on the Part of the Owner, Master, or Crew of the Ship, unless it is shown to the Satisfaction of the Court that at the Time of the Institution of the Cause any Owner or Part Owner of the Ship is domiciled in Ireland: Provided always, that if in any such Cause the Plaintiff do not recover *Twenty Pounds*, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

As to Claims for Damage by any Ship.

9. The High Court of Admiralty shall have Jurisdiction over any Claim for Damage done by any Ship whether within the Body of a County or not.

10. The

High Court of Admiralty to decide Questions as to Ownership, &c. of Ships.

10. The High Court of Admiralty shall have Jurisdiction to decide all Questions arising between the Co-Owners, or any of of them, touching the Ownership, Possession, Employment, and Earnings of any Ship registered at any Port in Ireland, or any Share thereof, and may settle all Accounts outstanding and unsettled between the Parties in relation thereto, and may direct the said Ship or any Share thereof to be sold, and may make such Order in the Premises as to it shall seem fit.

As to Claim for Wages and for Disbursements by Master of a Ship.

11. The High Court of Admiralty shall have Jurisdiction over any Claim by a Seaman of any Ship for Wages earned by him on board the Ship, whether the same be due under a special Contract or otherwise, and also over any Claim by the Master of any Ship for Wages earned by him on board the Ship, and for Disbursements made by him on account of the Ship: Provided always, that if in any such Case the Plaintiff do not recover *Fifty Pounds*, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

3 & 4 Vict. c. 65., in regard to Mortgages, extended to Court of Admiralty.

12. The High Court of Admiralty shall have Jurisdiction over any Claim in respect of any Mortgage duly registered according to the Provisions of "The Merchant Shipping Act, 1854," whether the Ship or the Proceeds thereof be under Arrest of the said Court or not.

Sections 62 to 65 of 17 & 18 Vict. c. 104. extended to Court of Admiralty.

13. The High Court of Admiralty shall have the same Powers over any British Ship, or any Share therein, as are conferred upon the High Court of Chancery in Ireland by the Sixty-second, Sixty-third, Sixty-fourth, and Sixty-fifth Sections of "The Merchant Shipping Act, 1854."

Part 9 of 17 & 18 Vict. c. 104. extended to Court of Admiralty.

14. Whenever any Ship or Vessel, or the Proceeds thereof, are under Arrest of the High Court of Admiralty, the said Court shall have the same Powers as are conferred upon the High Court of Chancery in Ireland by the Ninth Part of "The Merchant Shipping Act, 1854."

Court to be a Court of Record.

15. The High Court of Admiralty shall be a Court of Record for all Intents and Purposes.

Serjeants, Barristers-at-Law, Attorneys-at-Law, and Solicitors to be at liberty to practise in the High

16. All Serjeants, Barristers-at-Law, and all Attorneys-at-Law and Solicitors shall, from and after the *passing of this Act*, be entitled to practise as Serjeants, Barristers, Attorneys, Solicitors respectively in all Matters and Causes whatsoever in the said Court of Admiralty, and the said Serjeants and Barristers-at-Law shall and may have and exercise the same Rights and Privileges of practising in the said

Court of Admiralty.

Court of Admiralty as Advocates now have and enjoy in the said Court, and the said Attorneys and Solicitors shall and may have and exercise the same Rights and Privileges of practising in the said Court of Admiralty as Proctors now have and enjoy in the said Court, and the Serjeants, Advocates, and Barristers-at-Law shall have respectively the same Rank and Precedence in the said Court of Admiralty which they now have in the Superior Courts of Common Law, unless and until Her Majesty shall otherwise order: Provided always, that all Attorneys-at-Law and Solicitors practising in the Court of Admiralty shall be subject to the Authority of the Judge of the said Court, in the like Manner as Attorneys of the Queen's Bench are subject to the Authority of that Court.

Rules of Evidence in Common Law Courts to be observed.

17. The Rules of Evidence observed in the Superior Courts of Common Law shall be applicable to and observed in the Trial of all Matters and Facts in the Court of Admiralty.

In Illness of Judge, Common Law Judge may sit for him.

18. In case of Illness or unavoidable Absence of the Judge, any Judge of any of the Superior Courts of Law who, on the Request of the Lord Chancellor, shall find it convenient to attend, may sit for the Judge of the Court and exercise all his Powers.

Decrees and Orders of Court of Admiralty to have effect of Judgments at Common Law.

19. All Decrees and Orders of the High Court of Admiralty whereby any Sum of Money or any Costs, Charges, or Expenses shall be payable to any Person shall have the same Effect as Judgments in the Superior Courts of Common Law; and the Persons to whom any such Monies or Costs, Charges, or Expenses shall be deemed Judgment Creditors, and all Powers of enforcing Judgments possessed by the Superior Courts of Common Law or any Judge thereof, with respect to Matters depending in the same Courts, as well against the Ships and Goods arrested as against the Person of the Judgment Debtor, shall be possessed by the said Court of Admiralty with respect to Matters therein depending, and all Remedies at Common Law possessed by Judgment Creditors shall be in like Manner possessed by Persons to whom any Monies, Costs, Charges, or Expenses are by such Orders or Decrees of the said Court of Admiralty directed to be paid.

As to Claims to Goods taken in Execution.

20. If any Claim shall be made to any Goods or Chattels taken in Execution under any Process of the High Court of Admiralty, or in respect of the Seizure thereof, or any Act or Matter connected therewith, or in respect of the Proceeds or Value of any such Goods or Chattels by any Landlord for Rent, or by any Person not being the Party against whom the Process has issued, the Registrar of the said Court may, upon Application of the Officer charged with the Execution

Execution of the Process, whether before or after any Action brought against such Officer, issue a Summons calling before the said Court both the Party issuing such Process and the Party making the Claim, and thereupon any Action which shall have been brought in any of Her Majesty's Superior Courts of Record or in any Local or Inferior Court in respect of any such Claim, Seizure, Act, or Matter as aforesaid shall be stayed, and the Court in which such Action shall have been brought, or any Judge thereof, on Proof of the Issue of such Summons, and that the Goods and Chattels were so taken in Execution, may order the Party bringing the Action to pay the Costs of all Proceedings had upon the Action after Issue of the Summons out of the said Admiralty Court, and the Judge of the said Admiralty Court shall adjudicate upon the Claim, and make such Order between the Parties in respect thereof, and of the Costs of the Proceedings, as to him shall seem fit, and such Order shall be enforced in like Manner as any Order made in Suit brought in the said Court. Where any such Claim shall be made as aforesaid the Claimant may deposit with the Officer charged with the Execution of the Process either the Amount or Value of the Goods claimed, the Value to be fixed by Appraisement in case of Dispute, to be by the Officer paid into Court to abide the Decision of the Judge upon the Claim, or the Sum which the Officer shall be allowed to charge as Costs for keeping Possession of the Goods until such Decision can be obtained, and in default of the Claimant so doing the Officer may sell the Goods as if no such Claim had been made, and shall pay into Court the Proceeds of the Sale, to abide the Decision of the Judge.

Power to examine vivâ voce in open Court.

21. In any Cause depending in the High Court of Admiralty the Court, if it shall think fit, may summon before it and examine or cause to be examined Witnesses by Word of Mouth, and either before or after Examination by Deposition, or before a Commissioner, as hereafter mentioned, or in place of such, and Notes of such Examination shall be taken down in Writing by the Judge or Registrar, or by such other Person or Persons and in such Manner as the Judge of the said Court shall direct.

Evidence may be taken vivâ voce before a Commissioner.

22. The Court may, if it shall think fit, in any such Suit issue One or more Special Commissions to some Person being an Advocate of the said High Court of Admiralty of not less than *Seven* Years Standing, or a Barrister-at-Law of not less than *Seven* Years Standing, or a Proctor or an Attorney-at-Law or Solicitor of not less than *Seven* Years Standing, to take Evidence by Word of Mouth upon Oath, which every such Commissioner is hereby empowered to administer at such Time or Times, Place or Places, and as to such Fact or Facts, and in such Manner, Order, and Course, and under such Limitations

and Restrictions, and to transmit the same to the Registry of the said Court, in such Form and Manner as in and by the Commission shall be directed, and such Commissioner shall be attended, and the Witness shall be examined, cross-examined, and re-examined, by the Parties, their Counsel, Proctors, or Agents of such Parties, or either of them, shall think fit so to do, and such Commission shall, if need be, make a Special Report to the Court touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the said High Court of Admiralty is hereby authorized to institute such Proceedings and make such Order or Orders upon such Report as Justice may require and as may be instituted or made in any Case of Contempt of the said Court.

Attendance of Witnesses and Production of Books, &c. compulsory.

23. It shall be lawful in any Suit depending in the said Court of Admiralty for the Judge of the said Court, or for any such Commissioner appointed in pursuance of this Act, to require the Attendance of any Witness, and the Production of any Deeds, Evidences, Books, or Writings, by Writ to be issued by such Judge or Commissioner in such and the same Form, or as nearly as may be, as that in which a Writ of Subpœna ad testificandum or of Subpœna duces tecum is now issued by Her Majesty's Court of Queen's Bench at Dublin; and that every Person disobeying any such Writ so to be issued by the said Judge or Commissioner shall be considered as in Contempt of the said High Court of Admiralty, and may be punished for such Contempt in the said Court.

Power to direct Issues.

24. In any contested Suit depending in the said Court of Admiralty the said Court shall have Power, if it shall think fit, to direct a Trial by Jury of any Issue or Issues on any Question or Questions of Fact arising in any such Suit, and the Substance and Form of such Issue or Issues shall be specified by the Judge of the said Court at the Time of directing the same; and if the Parties differ in drawing such Issue or Issues, it shall be referred to the Judge of the said Court to settle the same; and such Trial shall be had before the Court itself, or some Judge of Her Majesty's Superior Courts of Common Law at the Sittings at Nisi Prius, or before some Judge of Assize at Nisi Prius, as to the said Court shall seem fit: Provided always, that, if the Parties so desire it, the said Jury may consist of *Three or Five* only, instead of Twelve Men.

Costs of Issues and of Commissions in Discretion of Court.

25. The Costs of such Issues or of such Commission as aforesaid, as the Judge of the said Court of Admiralty, shall under this Act direct, shall be paid by such Party or Parties, Person or Persons, and be taxed by the Registrar of the said Court of Admiralty in such Manner as the said Judge shall direct, and that Payment of such Costs

Costs shall be enforced in the same Manner as Costs between Party and Party may be enforced, or other Proceedings in the said Court.

Power to direct new Trials.

26. The said Court of Admiralty, upon Application to be made within *One Calendar Month* after the Trial of any such Issue by any Party concerned, may grant and direct One or more new Trials of any such Issue, and may order such new Trial to take place in the Manner herein-before directed with regard to the First Trial of such Issue, and may by Order of the same Court direct such Costs to be paid as to the said Court shall seem fit upon any Application for a new Trial, or upon any new Trial or Second or other new Trial, and may direct by whom and to whom and at what Times and in what Manner such Costs shall be paid.

Powers of the Court in respect of Issues.

27. When the Court shall order a Question of Fact to be tried before itself by a Jury, the Court may make all such Rules and Orders upon the Sheriff or any other Person for procuring the Attendance of a Special or Common Jury for the Trial of such Question as may now be made by any of the Superior Courts of Common Law at Dublin, and may also make any other Orders which to such Court may seem requisite; and every such Jury shall consist of Persons possessing the like Qualifications, and shall be struck, summoned, balloted for, and called in like Manner as if such Jury were a Jury for the Trial of a Cause in any of the Superior Courts, and every Juryman so summoned shall be entitled to the same Rights and subject to the same Duties and Liabilities as if he had been duly summoned for the Trial of any such Cause in any of the said Superior Courts of Common Law; and every Party to any such Proceeding shall be entitled to the same Rights, as to Challenge and otherwise, as if he was a Party to any such Cause; and generally for all Purposes of Trials of Question of Fact by a Jury before the Court itself, or in the Direction of Issues, the Court of Admiralty shall have the same Jurisdiction, Powers, and Authority as belongs to any of the Superior Courts of Common Law or any Judge thereof sitting at Nisi Prius, or to the High Court of Chancery or any Judge thereof for the like Purpose.

Record of the Issue to be with the Registrar.

28. The Record of the said Issue and of the Verdict therein shall be transmitted by the proper Officer to the Registrar of the said Court of Admiralty in all Cases where the Issue has been directed to a Judge at Nisi Pruis or to a Judge at the Assizes, and in all Cases where the Issue has been tried by the Court itself the said Record shall be retained by the said Registrar, and in all Cases the Verdict of the Jury upon any such Issue (unless the same shall be set aside) shall be conclusive upon the said Court, and upon all

such Persons, and in all further Proceedings in the Cause in which such Fact is found the said Court shall assume such Fact to be as found by the Jury.

Power of Superior Courts extended to Court of Admiralty.

29. The Judge of the Court of Admiralty shall have all such Powers as are possessed by any of the Superior Courts of Common Law in Ireland, or any Judge thereof, to compel either Party in any Cause or Matter to answer Interrogatories, and to enforce the Production, Inspection, and Delivery of Copies of any Document in his Possession or Power, and to commit for Contempt.

Party in Court of Admiralty may apply for an Order for Inspection by Jurors.

30. Any Party in a Cause in the Court of Admiralty shall be at liberty to apply to the said Court for an Order for the Inspection by the Jurors or others appointed for the Trial of the said Cause, or by the Party himself or his Witnesses, of any Ship, or any other Personal or Real Property, the Inspection of which may be material to the Issue of the Cause, and the Court may make such Order in respect of the Costs arising thereout as to it shall seem fit.

Admission of Documents.

31. Any Party in a Cause in the Court of Admiralty may call on any other Party in the Cause by Notice in Writing to admit any Documents, saving all just Exceptions; and in case of Refusal or Neglect so to admit, the Costs of proving the Documents shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall certify that the Refusal to admit was reasonable.

Power of Court of Admiralty when personal Service of Citation has not been effected to order Parties to proceed.

32. Whenever it shall be made to appear to the Judge of the Court of Admiralty that reasonable Efforts have been made to effect personal Service of any Citation, Monition, or other Process issued under Seal of the said Court, and either that the same has come to the Knowledge of the Party thereby cited or monished, or that he wilfully evades Service of the same, and has not appeared thereto, the said Judge may order that the Party on whose Behalf the Citation, Monition, or other Process was issued be at liberty to proceed as if personal Service had been effected, subject to such Conditions as to the Judge may seem fit, and all Proceedings thereon shall be as effectual as if personal Service of such Citation, Monition, or other Process had been effected.

As to Services being out of Ireland.

33. The Service in any Part of the United Kingdom of any Writ of Subpœna ad testificandum or Subpœna duces tecum, issued under Seal of the High Court of Admiralty, shall be as effectual as if the same had been served in Ireland.

34. Any

Power to issue new Writs or other Process.

34. Any new Writ or other Process necessary or expedient for giving effect to any of the Provisions of this Act may be issued from the High Court of Admiralty in such Form as the Judge of the said Court shall from Time to Time direct.

Judge and Registrar to have same Power as to Arbitration as to Judges and Masters at Common Law.

35. All the Powers possessed by any of the Superior Courts of Common Law, or any Judge thereof, under the "Common Law Procedure Act, 1856," and otherwise, with regard to References to Arbitration Proceedings thereon, and the enforcing of Awards of Arbitrators, shall be possessed by the Judge of the High Court of Admiralty in all Cases and Matters depending in the said Court, and the Registrar of the said Court of Admiralty shall possess as to such Matters the same Powers as are possessed by the Masters of the said Superior Courts of Common Law in relation thereto.

Section 15 of 17 & 18 Vict. c. 104. extended to Registrar of Court of Admiralty.

36. The Registrar of the High Court of Admiralty shall have the same Powers under the Fifteenth Section of the "Merchant Shipping Act, 1854," as are by the said Section conferred on the Masters of Her Majesty's Court of Queen's Bench in England and Ireland.

Powers of Registrar and of Deputy or Assistant Registrar.

37. The Registrar of the High Court of Admiralty may exercise with reference to Causes and Matters in the said Court the same Powers as any Surrogate of the Judge of the said Court sitting in Chambers might or could have heretofore lawfully exercised, and all Powers and Authorities by this or any other Act conferred upon or vested in the Registrar of the said High Court of Admiralty may be exercised by any Deputy or Assistant Registrar of the said Court.

False Oath or Affirmation deemed Perjury.

38. The Registrar of the said Court of Admiralty shall have Power to administer Oaths in relation to any Cause or Matter depending in the said Court, and any Person who shall wilfully depose or affirm falsely in any Proceeding before the Registrar or before any Deputy or Assistant Registrar of the said Court, or before any Person authorized to administer Oaths in the said Court, shall be deemed to be guilty of Perjury, and shall be liable to all the Pains and Penalties attaching to wilful and corrupt Perjury.

As to the Hearing of Causes and cross Causes.

39. The High Court of Admiralty may, on the Application of the Defendant in any Cause of Damage, and on his instituting a cross Cause for the Damage sustained by him in respect of the same Collision, direct that the principal Cause and the cross Cause be heard at the same Time and upon the same Evidence, and if in the principal Cause the Ship of the Defendant has been arrested or Security given by him to answer Judgment, and in the cross Cause

the Ship of the Plaintiff in the principal Cause cannot be arrested and Security has not been given to answer the Judgment therein, the Court may, if it think fit, suspend the Proceedings in the principal Cause until Security has been given to answer Judgment in the cross Cause.

Judge to have Power to make Rules of Court.

40. The Judge of the High Court of Admiralty shall from Time to Time make such Rules, Orders, and Regulations as to the Practice and Mode of proceeding of the said Court, and as to the Conduct and Duty of the Officers and Practitioners therein, as to him shall seem fit, and from Time to Time to repeal or alter such Rules, Orders, or Regulations: Provided always, that no such Rules, Orders, or Regulations shall be of any Force or Effect until the same shall have been approved of by the Lord High Chancellor of Ireland for the Time being.

Protection of the Judge of Court of Admiralty.

41. No Action shall lie against the Judge of the said Court of Admiralty for Error in Judgment, and the said Judge shall be entitled to and have all the Privileges and Protection in the Exercise of his Jurisdiction as Judge of the said Court which by Law appertain to the Judges of Her Majesty's Superior Courts of Common Law in the Exercise of their several Jurisdictions.

Gaolers to receive Prisoners committed by Court of Admiralty.

42. The Keeper for the Time being of any Common Gaol or Prison shall be bound to receive or take into his Custody all Persons who shall be committed thereunto by the said Court of Admiralty, and every Keeper of any Gaol or Prison who shall refuse to receive into his Custody any Person so committed, or wilfully or carelessly suffer such Person to escape and go at large without lawful Warrant, shall be liable to the like Penalties and Consequences as if such Person had been committed to his Custody by any other lawful Authority.

Prisoners in Contempt may be discharged.

43. It shall be lawful for the Judge of the said Court of Admiralty to order the Discharge of any Person who shall be in Custody for Contempt of the said Court, or for any other Cause other than Nonpayment of Money, on such Conditions as to the Judge shall seem just: Provided always, that the Order for such Discharge shall not be deemed to have purged the original Contempt in case the Conditions on which such Order shall be made be not fulfilled.

Appeal to Court of Appeal in Chancery, and Bail

44. Any Person finding himself aggrieved by any final or interlocutory Decree or Order of the Court of Admiralty may appeal therefrom to the Court of Appeal in Chancery, and in any Cause in the High Court of Admiralty Bail may be taken to answer the Judgment,

Judgment, as well of the said Court as of the Court of Appeal, and the said High Court of Admiralty may withhold the Release of any Property under its Arrest until such Bail has been given; and in any Appeal from any Decree or Order of the High Court of Admiralty the Court of Appeal may make and enforce its Order against the Surety or Sureties who may have signed any such Bail Bond in the same Manner as if the Bail had been given in the Court of Appeal. given in Court of Admiralty good in Court of Appeal.

45. The Jurisdiction conferred by this Act on the High Court of Admiralty may be exercised either by Proceedings in rem or by Proceedings in personam. Jurisdiction of Court.

46. *There shall be paid to the Judge of the High Court of Admiralty instead of his present Salary the yearly Salary of Pounds, and such Salary shall be payable quarterly, and shall be charged upon and payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland:* Provided, that the Judge shall not, during his Continuance in Office as such Judge, practise as an Advocate or Barrister-at-Law, or be capable of being elected or sitting as a Member of the House of Commons. Judge's Salary.

47. *Her Majesty by Letters Patent under the Great Seal of the United Kingdom may grant an Annuity not exceeding the yearly Sum of Pounds, to any Person who shall have executed the Office of Judge of the said Court, and shall have resigned the same, to be payable quarterly out of the said Consolidated Fund, to commence at the Time of the Resignation, and to continue during the Life of the Grantee: Provided, that no such Annuity shall be granted unless either the Grantee shall have been Judge of the said Court during a Period of Fifteen Years or unless such Person shall be afflicted with some permanent Infirmity disabling him from the due Execution of his said Office, which shall be distinctly recited in the said Grant: Provided always, that if the Grantee of such Annuity shall hold any other Office of Profit under Her Majesty, he shall be entitled to receive so much only of the said Annuity as, together with the Salary and Profit of such other Office, shall not exceed the Sum of Pounds.* Retiring Pension of Judge.

48. And whereas the present Manner of remunerating the Registrar and Marshal of the Court of Admiralty ought not to be continued, and it is expedient to make other Provision for the same, and for defraying the other Expenses incidental to the said Court, be it also enacted as follows: There shall be paid to the Registrar of the High Court of Admiralty out of the Fee Fund herein-after mentioned Registrar to be paid Salary.

the yearly Salary of Pounds, instead of all Fees, Dues, Perquisites, Emoluments, and Profits herein-before recited by or on account of such Registrar.

The Marshal to be paid Salary.

49. The Marshal of the High Court of Admiralty shall receive out of the Fee Fund herein-after mentioned a yearly Salary of Pounds, besides such Travelling and other Expenses necessarily incurred in the Execution of his Duty, as the Judge of the Admiralty with the Approbation of the Commissioners of Her Majesty's Treasury shall allow, instead of all Fees, Dues, Perquisites, Emoluments, and Profits heretofore received by or on account of such Marshal.

Clerks, &c. to be appointed by the Judge.

50. The Judge of the High Court of Admiralty shall, subject to the Approbation of the Lord Chancellor, continue or appoint so many Officers, Clerks, and Servants as may be necessary for carrying on the Business of the said Court; and the said Judge may, with the like Approval, remove at pleasure all or any of the Clerks, Officers, and Servants so appointed; and the Commissioners of Her Majesty's Treasury shall fix the Salaries of all such Officers, Clerks, and Servants; and the Salaries of the said Officers, Clerks, and Servants, and all other Expenses of carrying on the Business of the said Court not otherwise provided for, shall be paid out of the Fee Fund herein-after mentioned, and shall be allowed in the Account to be rendered by the Registrar as herein-after provided.

Salaries and Annuities how to be paid.

51. The said Salaries and Annuities shall be paid by Four equal quarterly Payments, on the Fifth Day of January, the Fifth Day of April, the Fifth Day of July, and the Tenth Day of October in every Year; provided that the Payment to be made in each Case on the first of the said quarterly Days which shall happen after the Accrual of the Right thereunto of the Person receiving the same under the Act shall be a rateable Proportion of a Quarter's Salary according to the Time then elapsed since the Accrual of such Right; and in case of Vacancy in the Office of any Judge, Registrar, or Marshal, or of any Clerk, Officer, or Servant, receiving a Salary under this Act, whose Salary is fixed by the Act of the Court of Admiralty, the Person making the Vacancy, his Executors or Administrators, shall be entitled to a proportional Part of his quarterly Salary according to the Time elapsed between the Vacancy and the last quarterly Payment.

Office of Registrar not to be executed by Deputy ex-

52. From and after the *passing of this Act* the Office of Registrar of the High Court of Admiralty shall not be executed by Deputy except in case of Illness or Absence of the Registrar for any reasonable Cause, to be allowed by the Judge, but the Registrar shall by himself

himself personally execute the Duties thereof: Provided always, that it shall be lawful for the said Registrar, by Writing under his Hand, to appoint a Deputy to act for him in case of his Absence from Illness or other reasonable Cause allowed by the Judge, and no such Deputy shall continue to act for any longer Time than shall be allowed and specified in and by the Order which shall be made on each such Occasion by the Judge of the Court of Admiralty; provided that in case any Registrar of the said Court who shall be prevented by Illness from giving his personal Attendance shall omit for the Space of *Two* Days to appoint such Deputy, the Judge of the Court of Admiralty shall, if he shall see fit, himself appoint such Deputy, and direct in all Cases what Part of the Salary of such Registrar shall be received by such Deputy, and the same shall be paid over to and received by him accordingly. cept in case of Illness.

53. Any Advocate, Barrister-at-Law, Proctor, Attorney, or Solicitor of *Ten* Years Standing may be appointed Registrar of the said Court. Appointment of Registrar.

54. No Registrar or Deputy Registrar, if such Deputation continue for any Time longer than *One Calendar Month*, nor the Marshal, nor any Officer or Clerk of the said High Court of Admiralty, shall, during the Time of his holding such Office, directly or indirectly practise as an Advocate, Barrister, Proctor, Solicitor, or Attorney in the said Court, or receive or participate in the Fees of any other Person so practising therein. No Officer of the Court to practise therein.

55. *Whereas the Number of Persons entitled to practise as Proctors of the said Court of Admiralty does not exceed Six Persons, and the Fees or Emoluments of the said Proctors may be damaged by the Abolition of the exclusive Rights and Privileges which they have hitherto enjoyed as such Proctors in the said Court: Be it enacted, That the Commissioners of Her Majesty's Treasury, by Examination on Oath or otherwise, which Oath they are hereby authorized to administer, may inquire into, and may, by the Production of such Evidence as they shall think fit to require, ascertain and absolutely determine the nett annual Amount of the Profits arising from the Transaction of Business by Proctors, on Matters and Causes in such Admiralty Court, on an average of Five Years immediately preceding the Commencement of this Act, and shall award to each and every such Proctor a Sum of Money or annual Payment during the Term of his natural Life, of such Amount as shall be equal in Value to One Half of the net Profits derived by such Proctor in respect of Matters and Causes in the said Court of Admiralty, upon the said Average of Five Years immediately preceding the Commencement of this Act.* Compensation of Proctors.

Admission of Proctors as Solicitors.

56. Every Person who at the Time of the *passing of this Act* or within *Six* Calendar Months afterwards is actually admitted and practising or entitled to practise as a Proctor of the High Court of Admiralty may within *One Year* after the passing of this Act be admitted without the Payment of any Stamp Duty, Fee, Charge, or Gratuity whatsoever as a Solicitor of the High Court of Chancery, upon the Production of an official Certificate that such Admission continued in force at the Time of the passing of this Act or within *Twelve* Months afterwards; and upon signing the Roll of Solicitors of the High Court of Chancery, but not otherwise, shall be entitled to be admitted as a Solicitor of such Court, and to be afterwards in like Manner admitted and enrolled as an Attorney of Her Majesty's Superior Courts; and all the Provisions of the Act Twenty-fourth and Twenty-fifth Victoria, Chapter Sixty-eight, shall relate to Proctors of the said Admiralty Court and their Apprentices or Articled Clerks fully to all Intents and Purposes, as if they were named therein in every Place where in the said Act Attorneys and Solicitors are referred to.

Suitors Money to be lodged in the Bank of Ireland.

57. All Money of the Suitors of the Court of Admiralty shall be lodged under Orders of the Court to be made from Time to Time in the Bank of Ireland, to an Account there to be opened in the Name of the Registrar of the High Court of Admiralty of Ireland ex parte the Cause or Matter in which such Order may be made, and the same shall not be drawn out therefrom save under Order of the Court, with the Cheque or Draft of the said Registrar endorsed on the said Order, and countersigned by the Judge of the Court of Admiralty.

Registrar to account annually for all Fees received by him.

58. The Registrar of the High Court of Admiralty shall, on or before the *Twentieth Day of January* in every Year, render to the Commissioners of Her Majesty's Treasury upon Oath, to be sworn before the Judge of the High Court of Admiralty or a Surrogate of the said Court, a true Account in Writing of the gross and nett Amount of all such Fees and Emoluments as shall have become due in the preceding Year ending on the *First January* on account of the Judge of the said Court, by virtue of his Office as such Judge, or on account of the Marshal or any other Officer of the said Court, specifying the Particulars of the Payments, Disbursements, Allowances, and Charges constituting the Difference between the gross and nett Amounts, and also a like Account of all the Fees, Dues, Perquisites, Emoluments, and Profits received by or on account of or for the Registrar of the said Court of Admiralty; the Marshal, Seal Keeper, and every other Officer of the Court in the Receipts for Business done in the said Court, shall render to the Registrar on Oath, to be sworn before the Judge or a Surrogate of the Court, a true Account

Account in Writing of all the Fees respectively secured by each of them at such Times and subject to such Regulations as the Court shall from Time to Time think fit to direct.

Fees to be carried to Fee Fund.

59. All the Fees so received on account of the Judge and Marshal or any other Officer of the Court of the said High Court of Admiralty, and also all the Fees, Dues, Emoluments, Perquisites, and Profits received by or on account of the Registrar, after the Expiration of the Interest at present vested in possession in the said Office of the Registrar, shall be carried by the Registrar to an Account to be opened and kept in the Bank of Ireland of a Fund to be called "The Fee Fund of the High Court of Admiralty," and out of the said Fee Fund there shall be paid by the said Registrar, at the Times and in the Manner herein-before directed, the Salaries of the Registrar, Assistant Registrar, and Marshal, and of the Clerks, Officers, and Servants of the said Court, and all Expenses of holding and carrying on the Business of the said Court not otherwise provided for; and in case there shall be at any Time a Deficiency in the said Fee Fund, so that the same shall not be sufficient to discharge the several Salaries and Sums of Money herein-before charged thereon, the Judge of the High Court of Admiralty shall, by Writing under his Hand and Seal, certify to the Commissioners of Her Majesty's Treasury the Amount of such Deficiency, *and the said Commissioners shall forthwith, upon the Receipt of such Certificate, direct that there be issued and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, to the Principal or Deputy Registrar of the said Court, on account of the Fee Fund of the said Court, such a Sum of Money as shall be sufficient to cover the Deficiency so certified to them as aforesaid.*

Surplus to be carried to the Consolidated Fund.

60. When and so often from Time to Time as the said Fee Fund shall amount to such a Sum as shall be sufficient to pay all the Salaries and Sums of Money herein-before charged thereupon, and there shall be a Surplus remaining after such Payment, the Registrar of the High Court of Admiralty shall, once in every Quarter of a Year, (that is to say,) on or before the Twentieth Day of April, the Twentieth Day of July, the Twentieth Day of October, and the Twentieth Day of January, pay such Surplus, if any, into the Bank of Ireland to the Credit of Her Majesty's Exchequer, to the Account of the said Consolidated Fund.

Treasury by Warrants to direct Payment out of the Consolidated Fund.

61. *It shall be lawful for the Commissioners of Her Majesty's Treasury, and they are hereby authorized and required to direct the several Payments aforesaid to be made out of the Consolidated Fund.*

 62. Neither

Judge, Registrar, &c. not to receive Fees on their own Account.

62. Neither the Judge, nor any Registrar, Assistant to the Registrar, Deputy Registrar, or Marshal of the Court of Admiralty shall be entitled to or to take for his own Use or Benefit, directly or indirectly, any Fee or Emolument whatsoever, save the Salary, Allowance, or Annuity to which he shall be entitled by virtue of this Act.

Accounts may be referred to Judge of High Court of Admiralty.

63. In case the said Commissioners of Her Majesty's Treasury shall be dissatisfied with any Account to be rendered to them as aforesaid, it shall be lawful for him or them to refer the same to the Judge of the High Court of Admiralty, who shall thereupon, by such Ways and Means and by the Examination of such Persons as they or he shall think fit, and upon Oath, if he or they shall think the same necessary (which he or they is, and are hereby authorized to administer) inquire into the said Accounts, or any Entry therein, and all or any of the Disbursements, Allowances, or Charges therein contained, and make such Allowances and Disallowances therein as he or they shall think reasonable, and shall finally settle and certify in Writing the net Amount of the Fees and Emoluments to which such Account relates.

Lord Lieutenant may by Order in Council vary, alter, or abolish Fees, and provide for their Collection by Stamps.

64. The Lord Lieutenant or other chief Governor or Governors of Ireland, by and with the Advice of the Privy Council, may by Order in Council from Time to Time vary, alter, or abolish all or any of the Fees payable to the Office of Judge, Registrar, or Marshal in relation to Proceedings in the Court of Admiralty, and may substitute One or more Fee or Fees in lieu thereof, *and may direct that all or any of such Fees shall, from a Day to be named in such Order and thenceforth, be collected by means of Stamps, to be provided and used in manner herein-before mentioned.*

After such Order Fees not to be received in Money but by means of Stamps.

65. *From and after the Day named in such Order the Fees directed by such Order to be received by Stamps shall not be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable, and where any Fee shall be payable in respect of any Document, and under such Regulations as shall by any Order of the Judge of the said Court be directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceeding.*

Commissioners of Inland Revenue to give the necessary Directions as

66. *The Commissioners of Inland Revenue shall from Time to Time and as Occasion shall require give the necessary Directions for carrying the same into effect, and shall provide everything that is requisite for that Purpose, and shall do or cause to be done everything that is necessary for the Receipt and Collection of the Money to be paid for*

for such Stamps, and the said Commissioners shall cause separate and distinct Accounts of all Sums of Money received or collected by them in respect of the Sale of such Stamps, and of all Costs, Charges, and Expenses incurred by them or by their Direction in carrying the same into effect.

to the Stamps, and to keep separate Accounts.

67. *The Commissioners of Inland Revenue may, if they think it necessary to do so, authorize proper Persons for the Sale and Distribution of all or any of the Stamps to be used under this Act, and may allow to such Persons the usual or customary Discount or Poundage thereon.*

Provision for Sale of Stamps.

68. *The Commissioners of Inland Revenue shall from Time to Time make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which through Mistake or Inadvertence may have been improperly or unnecessarily used, and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on Stamps of the like Kind.*

Commissioners of Inland Revenue to make Regulations as to spoiled Stamps.

69. *The Provisions contained in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall (so far as the same are applicable and consistent with the Provisions of this Act), in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under and by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be affixed, and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.*

Several Stamp Acts to be in force.

70. *No Document which by any Order as aforesaid ought to have had a Stamp impressed thereon or affixed thereto shall be received or filed or be used in relation to any Proceeding in the High Court of Admiralty, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought*

No Document to be received or used unless stamped.

to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, the Judge of the said Court may, if he shall think fit, order that a Stamp not exceeding in Value Four Times the Amount of such original Stamp shall be impressed thereon or affixed thereto and thereupon, when the proper Stamp shall in compliance with such Order have been impressed on such Document or affixed thereto, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed.

71. *If any Officer of the High Court of Admiralty or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, any such Officer or Person so offending may be dismissed from his Office or Employment by the Judge of the said Court.*

Power to Treasury to order Pensions for retiring Officers.

72. It shall be lawful for the Commissioners of Her Majesty's Treasury, on the Recommendation of the Judge of the High Court of Admiralty, to order to be paid to any Person now or hereafter holding any Office or Employment in the said Court, who shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, or shall be desirous of resigning the same, a Superannuation or Allowance; and in ascertaining and awarding the Amount of such Superannuation or Allowance, the said Commissioners shall proceed according to the Principle laid down in the Act of the Fourth and Fifth Years of King William the Fourth, Chapter Twenty-four.

Provisions to extend to Instance, Prize, and other Matters.

73. Except where it shall be otherwise expressed, the Provisions of this Act shall apply to all Instances, Prize and other Matters, Suits, and Proceedings of which the High Court of Admiralty may legally take cognizance.

SCHE-

SCHEDULE to which this Act refers.

References to Act.	Title of Act.	Extent of Repeal.
23 & 24 Geo. 3. c. 14. Irish.	An Act for regulating the High Court of Admiralty in this Kingdom.	S ection 3.
40 Geo. 3. c. 69.	An Act to enable His Majesty to grant Annuities to the Lord High Chancellor, and to the Judges, &c., and to the Judge of the Court of Admiralty.	Section 2, so far as relates to the Salary of the Judge of the Admiralty.
2 & 3 Will. 4. c. 116.	An Act to provide for the Salaries of certain High and Judicial Officers, and of Payments heretofore made out of the Civil List Revenue.	Section 1, so far as relates to the Salary of the Judge of the Admiralty, and Section 2, so far as relates to the Fees of the Judge of the Admiralty.

(Ireland).

A

B I L L

To alter and amend the Procedure and Practice of the Court of Admiralty in Ireland.

(Prepared and brought in by Mr. Maguire and Mr. Longfield.)

Ordered, by The House of Commons, *to be Printed,* 2 *March* 1863.

[Bill 45.]

Under 3 *oz.*

28 *May* 1863. 26 Vict.

A

BILL

[AS AMENDED IN COMMITTEE]

TO

Alter and amend the Procedure and Practice of the Court of Admiralty in Ireland.

WHEREAS it is expedient to regulate the Jurisdiction and amend the Practice of the High Court of Admiralty of Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. This Act may be cited for all Purposes as the "Admiralty Court of Ireland Act, 1863." Short Title of Act.

2. In the Interpretation, and for the Purposes of this Act (if not inconsistent with the Context or Subject) the following Terms shall have the respective Meanings herein-after assigned to them; that is to say, Interpretation of Terms.

"Ship" shall include any Description of Vessel used in Navigation not propelled by Oars:

"Cause" shall include any Cause, Suit, Action, or other Proceeding in the High Court of Admiralty of Ireland:

"The Court of Admiralty" shall mean the High Court of Admiralty of Ireland.

Commencement of Act.

3. This Act shall come into operation, except where otherwise specially provided, on the *Day of* *One thousand eight hundred and sixty-*

Parts of Acts hereby repealed.

4. There shall be hereby repealed the several Parts of Acts set forth in the Schedule hereto to the Extent to which such Parts of Acts are therein expressed to be repealed, and all such Provisions of any other Acts, or of any Charters, and all such Laws and Customs or Rules as are inconsistent with the Provisions of this Act.

Jurisdiction in Cases of Salvage.

5. The Court of Admiralty shall have full Jurisdiction to hear and decide all Claims and Demands whatsoever in the Nature of Salvage for Services rendered to or Damage received by any Ship, or in the Nature of Towage or Pilotage, and to enforce the Payment thereof, whether such Ship may have been within the Body of a County or on the High Seas at the Time when the Services were rendered or Damage received in respect of which such Claims are made.

Jurisdiction as to Claims for Salvage of Life.

6. The Court of Admiralty shall have Jurisdiction to take cognizance of and decide all Claims of Salvage in respect of the Preservation of Life under the Provisions of "The Merchant Shipping Act, 1854," and "The Merchant Shipping Amendment Act, 1862," and to enforce the Payment thereof.

As to Claims for building, equipping, or repairing of Ships.

7. The Court of Admiralty shall have Jurisdiction over any Claim for the building, equipping, or repairing of any Ship, if at the Time of the Institution of the Cause the Ship or the Proceeds thereof are under Arrest of the Court.

Clause A. Jurisdiction of the High Court of Admiralty.

8. The High Court of Admiralty shall have Jurisdiction over any Claim for Necessaries supplied to any Ship at any Port or elsewhere than in the Port to which the Ship belongs, unless it is shown to the Satisfaction of the Court that at the Time of the Institution of Proceedings before the Court in a Cause to establish such Claim, any Owner or Part Owner of a Ship is domiciled in Ireland: Provided always, that if in any such Cause the Plaintiff do not recover Twenty Pounds, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein, unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

As to Claim for Damage of Cargo imported.

9. The Court of Admiralty shall have Jurisdiction over any Claim by the Owner or Consignee or Assignee of any Bill of Lading of any Goods carried from Foreign or Home Port or back from Sea into any Port in Ireland in any Ship for Damage done to the Goods, or any Part thereof, by the Negligence or Misconduct of, or for any Breach of

of Duty or Breach of Contract, on the Part of the Owner, Master, or Crew of the Ship, unless it is shown to the Satisfaction of the Court that at the Time of the Institution of the Cause any Owner or Part Owner of the Ship is domiciled in Ireland: Provided always, that if in any such Cause the Plaintiff do not recover *Twenty Pounds*, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

As to Claims for Damage by any Ship.

10. The High Court of Admiralty shall have Jurisdiction over any Claim for Damage done by any Ship whether within the Body of a County or not.

High Court of Admiralty to decide Questions as to Ownership, &c. of Ships.

11. The High Court of Admiralty shall have Jurisdiction to decide all Questions arising between the Co-Owners, or any of of them, touching the Ownership, Possession, Employment, and Earnings of any Ship registered at any Port in Ireland, or any Share thereof, and may settle all Accounts outstanding and unsettled between the Parties in relation thereto, and may direct the said Ship or any Share thereof to be sold, and may make such Order in the Premises as to it shall seem fit.

As to Claim for Wages and for Disbursements by Master of a Ship.

12. The High Court of Admiralty shall have Jurisdiction over any Claim by a Seaman of any Ship for Wages earned by him on board the Ship, whether the same be due under a special Contract or otherwise, and also over any Claim by the Master of any Ship for Wages earned by him on board the Ship, and for Disbursements made by him on account of the Ship: Provided always, that if in any such Case the Plaintiff do not recover *Twenty Pounds*, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

3 & 4 Vict. c. 65., in regard to Mortgages, extended to Court of Admiralty.

13. The High Court of Admiralty shall have Jurisdiction over any Claim in respect of any Mortgage duly registered according to the Provisions of "The Merchant Shipping Act, 1854," whether the Ship or the Proceeds thereof be under Arrest of the said Court or not.

Sections 62 to 65 of 17 & 18 Vict. c. 104. extended to Court of Admiralty.

14. The High Court of Admiralty shall have the same Powers over any British Ship, or any Share therein, as are conferred upon the High Court of Chancery in Ireland by the Sixty-second, Sixty-third, Sixty-fourth, and Sixty-fifth Sections of "The Merchant Shipping Act, 1854."

Part 9 of 17 & 18 Vict. c. 104. ex-

15. Whenever any Ship or Vessel, or the Proceeds thereof, are under Arrest of the High Court of Admiralty, the said Court shall

tended to Court of Admiralty.

have the same Powers as are conferred upon the High Court of Chancery in Ireland by the Ninth Part of "The Merchant Shipping Act, 1854."

CLAUSE B. Proceeding by way of Monition.

16. In all Cases in which a Party has a Cause or Right of Action in the High Court of Admiralty against any Ship, Freight, Goods, or other Effects whatever, it shall not be necessary to the Institution of the Suit for such Person to sue out a Warrant for the Arrest thereof, but it shall be competent to him to proceed by way of Monition, citing the Owner or Owners of such Ship, Freight, Goods, or other Effects to appear and defend the Suit; and upon satisfactory Proof being given that the said Monition has been personally served upon such Owner or Owners, the said Court may proceed to hear and determine the Suit, and may make such Order in the Premises as to it shall seem right.

CLAUSE C. Jurisdiction of the Court in Cases of Booty of War.

17. The said High Court of Admiralty shall have Jurisdiction to hear and decide all Matters and Questions concerning Booty of War, or the Distribution thereof, which it shall please Her Majesty, Her Heirs and Successors, by the advice of Her and their Privy Council, to refer to the Judgment of the said Court; and in all Matters so referred the Court shall proceed as in Cases of Prize of War, and the Judgment of the Court therein shall be binding upon all Parties concerned.

Court to be a Court of Record.

18. The High Court of Admiralty shall be a Court of Record for all Intents and Purposes.

Serjeants, Barristers-at-Law, Attorneys-at-Law, and Solicitors to be at liberty to practise in the High Court of Admiralty.

19. All Serjeants, Barristers-at-Law, and all Attorneys-at-Law and Solicitors shall, from and after the *Commencement of this Act*, be entitled to practise as Serjeants, Barristers, Attorneys, Solicitors respectively in all Matters and Causes whatsoever in the said Court of Admiralty, and the said Serjeants and Barristers-at-Law shall and may have and exercise the same Rights and Privileges of practising in the said Court of Admiralty as Advocates now have and enjoy in the said Court, and the said Attorneys and Solicitors shall and may have and exercise the same Rights and Privileges of practising in the said Court of Admiralty as Proctors now have and enjoy in the said Court, and the Serjeants, Advocates, and Barristers-at-Law shall have respectively the same Rank and Precedence in the said Court of Admiralty which they now have in the Superior Courts of Common Law, unless and until Her Majesty shall otherwise order: Provided always, that all Attorneys-at-Law and Solicitors practising in the Court of Admiralty shall be subject to the Authority of the Judge of the said Court, in the like Manner as Attorneys of the Queen's Bench are subject to the Authority of that Court.

20. The

Rules of Evidence in Common Law Courts to be observed.

20. The Rules of Evidence observed in the Superior Courts of Common Law shall be applicable to and observed in the Trial of all Matters and Facts in the Court of Admiralty.

In Illness of Judge, Common Law Judge may sit for him.

21. In case of Illness or unavoidable Absence of the Judge, any Judge of any of the Superior Courts of Law who, on the Request of the Lord Chancellor, shall find it convenient to attend, may sit for the Judge of the Court and exercise all his Powers.

Decrees and Orders of Court of Admiralty to have effect of Judgments at Common Law.

22. All Decrees and Orders of the High Court of Admiralty whereby any Sum of Money or any Costs, Charges, or Expenses shall be payable to any Person shall have the same Effect as Judgments in the Superior Courts of Common Law; and the Persons to whom any such Monies or Costs, Charges, or Expenses shall be deemed Judgment Creditors, and all Powers of enforcing Judgments possessed by the Superior Courts of Common Law or any Judge thereof, with respect to Matters depending in the same Courts, as well against the Ships and Goods arrested as against the Person of the Judgment Debtor, shall be possessed by the said Court of Admiralty with respect to Matters therein depending, and all Remedies at Law possessed by Judgment Creditors shall be in like Manner possessed by Persons to whom any Monies, Costs, Charges, or Expenses are by such Orders or Decrees of the said Court of Admiralty directed to be paid.

As to Claims to Goods taken in Execution.

23. If any Claim shall be made to any Goods or Chattels taken in Execution under any Process of the High Court of Admiralty, or in respect of the Seizure thereof, or any Act or Matter connected therewith, or in respect of the Proceeds or Value of any such Goods or Chattels by any Landlord for Rent, or by any Person not being the Party against whom the Process has issued, the Registrar of the said Court may, upon Application of the Officer charged with the Execution of the Process, whether before or after any Action brought against such Officer, issue a Summons calling before the said Court both the Party issuing such Process and the Party making the Claim, and thereupon any Action which shall have been brought in any of Her Majesty's Superior Courts of Record or in any Local or Inferior Court in respect of any such Claim, Seizure, Act, or Matter as aforesaid shall be stayed, and the Court in which such Action shall have been brought, or any Judge thereof, on Proof of the Issue of such Summons, and that the Goods and Chattels were so taken in Execution, may order the Party bringing the Action to pay the Costs of all Proceedings had upon the Action after Issue of the Summons out of the said Admiralty Court, and the Judge of the said Admiralty Court shall adjudicate upon the Claim, and make such

Order between the Parties in respect thereof, and of the Costs of the Proceedings, as to him shall seem fit, and such Order shall be enforced in like Manner as any Order made in Suit brought in the said Court. Where any such Claim shall be made as aforesaid the Claimant may deposit with the Officer charged with the Execution of the Process either the Amount or Value of the Goods claimed, the Value to be fixed by Appraisement in case of Dispute, to be by the Officer paid into Court to abide the Decision of the Judge upon the Claim, or the Sum which the Officer shall be allowed to charge as Costs for keeping Possession of the Goods until such Decision can be obtained, and in default of the Claimant so doing the Officer may sell the Goods as if no such Claim had been made, and shall pay into Court the Proceeds of the Sale, to abide the Decision of the Judge.

Power to examine vivâ voce in open Court.

24. In any Cause depending in the High Court of Admiralty the Court, if it shall think fit, may summon before it and examine or cause to be examined Witnesses by Word of Mouth, and either before or after Examination by Deposition, or before a Commissioner, as hereafter mentioned, or in place of such, and Notes of such Examination shall be taken down in Writing by the Judge or Registrar, or by such other Person or Persons and in such Manner as the Judge of the said Court shall direct.

Evidence may be taken vivâ voce before a Commissioner.

25. The Court may, if it shall think fit, in any such Suit issue One or more Special Commissions to some Person being an Advocate of the said High Court of Admiralty of not less than *Seven* Years Standing, or a Barrister-at-Law of not less than *Seven* Years Standing, or a Proctor or an Attorney-at-Law or Solicitor of not less than *Seven* Years Standing, or to any British Consul or Vice Consul resident at or near the Place, if out of the United Kingdom, to take Evidence by Word of Mouth upon Oath, which every such Commissioner or British Consul or Vice Consul is hereby empowered to administer at such Time or Times, Place or Places, and as to such Fact or Facts, and in such Manner, Order, and Course, and under such Limitations and Restrictions, and to transmit the same to the Registry of the said Court, in such Form and Manner as in and by the Commission shall be directed, and such Commissioner or British Consul or Vice Consul shall be attended, and the Witness shall be examined, cross-examined, and re-examined, by the Parties, their Counsel, Proctors, or Agents, if such Parties, or either of them, shall think fit so to do, and such Commissioner or British Consul or Vice Consul shall, if need be, make a Special Report to the Court touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the said High Court of Admiralty is hereby authorized

authorized to institute such Proceedings and make such Order or Orders upon such Report as Justice may require and as may be instituted or made in any Case of Contempt of the said Court.

Attendance of Witnesses and Production of Books, &c. compulsory.

26. It shall be lawful in any Suit depending in the said Court of Admiralty for the Judge of the said Court, or for any such Commissioner or British Consul or Vice Consul appointed in pursuance of this Act, to require the Attendance of any Witness, and the Production of any Deeds, Evidences, Books, or Writings, by Writ to be issued by such Judge or Commissioner or British Consul or Vice Consul in such and the same Form, or as nearly as may be, as that in which a Writ of Subpœna ad testificandum or of Subpœna duces tecum is now issued by Her Majesty's Court of Queen's Bench at Dublin; and that every Person disobeying any such Writ so to be issued by the said Judge or Commissioner or British Consul or Vice Consul shall be considered as in Contempt of the said High Court of Admiralty, and may be punished for such Contempt in the said Court.

Power to direct Issues.

27. In any contested Suit depending in the said Court of Admiralty the said Court shall have Power, if it shall think fit, to direct a Trial by Jury of any Issue or Issues on any Question or Questions of Fact arising in any such Suit, and the Substance and Form of such Issue or Issues shall be specified by the Judge of the said Court at the Time of directing the same; and if the Parties differ in drawing such Issue or Issues, it shall be referred to the Judge of the said Court to settle the same; and such Trial shall be had before the Court itself, or some Judge of Her Majesty's Superior Courts of Common Law at the Sittings at Nisi Prius, or before some Judge of Assize at Nisi Prius, as to the said Court shall seem fit: Provided always, that, if the Parties so desire it, the said Jury may consist of *Three or Five* only, instead of Twelve Men.

Costs of Issues and of Commissions in Discretion of Court.

28. The Costs of such Issues or of such Commission as aforesaid, as the Judge of the said Court of Admiralty, shall under this Act direct, shall be paid by such Party or Parties, Person or Persons, and be taxed by the Registrar of the said Court of Admiralty in such Manner as the said Judge shall direct, and that Payment of such Costs shall be enforced in the same Manner as Costs between Party and Party may be enforced, or other Proceedings in the said Court.

Power to direct new Trials.

29. The said Court of Admiralty, upon Application to be made within *One Calendar Month* after the Trial of any such Issue by any Party concerned, may grant and direct One or more new Trials of any such Issue, and may order such new Trial to take place in the

Manner herein-before directed with regard to the First Trial of such Issue, and may by Order of the same Court direct such Costs to be paid as to the said Court shall seem fit upon any Application for a new Trial, or upon any new Trial or Second or other new Trial, and may direct by whom and to whom and at what Times and in what Manner such Costs shall be paid.

Powers of the Court in respect of Issues.

30. When the Court shall order a Question of Fact to be tried before itself by a Jury, the Court may make all such Rules and Orders upon the Sheriff or any other Person for procuring the Attendance of a Special or Common Jury for the Trial of such Question as may now be made by any of the Superior Courts of Common Law at Dublin, and may also make any other Orders which to such Court may seem requisite; and every such Jury shall consist of Persons possessing the like Qualifications, and shall be struck, summoned, balloted for, and called in like Manner as if such Jury were a Jury for the Trial of a Cause in any of the Superior Courts, and every Juryman so summoned shall be entitled to the same Rights and subject to the same Duties and Liabilities as if he had been duly summoned for the Trial of any such Cause in any of the said Superior Courts of Common Law; and every Party to any such Proceeding shall be entitled to the same Rights, as to Challenge and otherwise, as if he was a Party to any such Cause; and generally for all Purposes of Trials of Question of Fact by a Jury before the Court itself, or in the Direction of Issues, the Court of Admiralty shall have the same Jurisdiction, Powers, and Authority as belongs to any of the Superior Courts of Common Law or any Judge thereof sitting at Nisi Prius, or to the High Court of Chancery or any Judge thereof for the like Purpose.

Record of the Issue to be with the Registrar.

31. The Record of the said Issue and of the Verdict therein shall be transmitted by the proper Officer to the Registrar of the said Court of Admiralty in all Cases where the Issue has been directed to a Judge at Nisi Pruis or to a Judge at the Assizes, and in all Cases where the Issue has been tried by the Court itself the said Record shall be retained by the said Registrar, and in all Cases the Verdict of the Jury upon any such Issue (unless the same shall be set aside) shall be conclusive upon the said Court, and upon all such Persons, and in all further Proceedings in the Cause in which such Fact is found the said Court shall assume such Fact to be as found by the Jury.

Power of Superior Courts extended to Court of Admiralty.

32. The Judge of the Court of Admiralty shall have all such Powers as are possessed by any of the Superior Courts of Common Law in Ireland, or any Judge thereof, to compel either Party in any Cause

Cause or Matter to answer Interrogatories, and to enforce the Production, Inspection, and Delivery of Copies of any Document in his Possession or Power, and to commit for Contempt.

Party in Court of Admiralty may apply for an Order for Inspection by Jurors.

33. Any Party in a Cause in the Court of Admiralty shall be at liberty to apply to the said Court for an Order for the Inspection by the Jurors or others appointed for the Trial of the said Cause, or by the Party himself or his Witnesses, of any Ship, or any other Personal or Real Property, the Inspection of which may be material to the Issue of the Cause, and the Court may make such Order in respect of the Costs arising thereout as to it shall seem fit.

Admission of Documents.

34. Any Party in a Cause in the Court of Admiralty may call on any other Party in the Cause by Notice in Writing to admit any Documents, saving all just Exceptions; and in case of Refusal or Neglect so to admit, the Costs of proving the Documents shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall certify that the Refusal to admit was reasonable.

Power of Court of Admiralty when personal Service of Citation has not been effected to order Parties to proceed.

35. Whenever it shall be made to appear to the Judge of the Court of Admiralty that reasonable Efforts have been made to effect personal Service of any Citation, Monition, or other Process issued under Seal of the said Court, and either that the same has come to the Knowledge of the Party thereby cited or monished, or that he wilfully evades Service of the same, and has not appeared thereto, the said Judge may order that the Party on whose Behalf the Citation, Monition, or other Process was issued be at liberty to proceed as if personal Service had been effected, subject to such Conditions as to the Judge may seem fit, and all Proceedings thereon shall be as effectual as if personal Service of such Citation, Monition, or other Process had been effected.

As to Services being out of Ireland.

36. The Service in any Part of the United Kingdom of any Writ of Subpœna ad testificandum or Subpœna duces tecum, issued under Seal of the High Court of Admiralty, shall be as effectual as if the same had been served in Ireland.

Power to issue new Writs or other Process.

37. Any new Writ or other Process necessary or expedient for giving effect to any of the Provisions of this Act may be issued from the High Court of Admiralty in such Form as the Judge of the said Court shall from Time to Time direct.

Judge and Registrar to have same

38. All the Powers possessed by any of the Superior Courts of Common Law, or any Judge thereof, under the "Common Law

Power as to Arbitration as to Judges and Masters at Common Law.

Procedure Act, 1856," and otherwise, with regard to References to Arbitration Proceedings thereon, and the enforcing of Awards of Arbitrators, shall be possessed by the Judge of the High Court of Admiralty in all Cases and Matters depending in the said Court, and the Registrar of the said Court of Admiralty shall possess as to such Matters the same Powers as are possessed by the Masters of the said Superior Courts of Common Law in relation thereto.

Section 15 of 17 & 18 Vict. c. 104. extended to Registrar of Court of Admiralty.

39. The Registrar of the High Court of Admiralty shall have the same Powers under the Fifteenth Section of the "Merchant Shipping Act, 1854," as are by the said Section conferred on the Masters of Her Majesty's Court of Queen's Bench in England and Ireland.

Powers of Registrar and of Deputy or Assistant Registrar.

40. The Registrar of the High Court of Admiralty may exercise with reference to Causes and Matters in the said Court the same Powers as any Surrogate of the Judge of the said Court sitting in Chambers might or could have heretofore lawfully exercised, and all Powers and Authorities by this or any other Act conferred upon or vested in the Registrar of the said High Court of Admiralty may be exercised by any Deputy or Assistant Registrar of the said Court.

False Oath or Affirmation deemed Perjury.

41. The Registrar of the said Court of Admiralty shall have Power to administer Oaths in relation to any Cause or Matter depending in the said Court, and any Person who shall wilfully depose or affirm falsely in any Proceeding before the Registrar or before any Deputy or Assistant Registrar of the said Court, or before any Person authorized to administer Oaths in the said Court, shall be deemed to be guilty of Perjury, and shall be liable to all the Pains and Penalties attaching to wilful and corrupt Perjury.

As to the Hearing of Causes and cross Causes.

42. The High Court of Admiralty may, on the Application of the Defendant in any Cause of Damage, and on his instituting a cross Cause for the Damage sustained by him in respect of the same Collision, direct that the principal Cause and the cross Cause be heard at the same Time and upon the same Evidence, and if in the principal Cause the Ship of the Defendant has been arrested or Security given by him to answer Judgment, and in the cross Cause the Ship of the Plaintiff in the principal Cause cannot be arrested and Security has not been given to answer the Judgment therein, the Court may, if it think fit, suspend the Proceedings in the principal Cause until Security has been given to answer Judgment in the cross Cause.

Judge to have Power to make Rules of Court.

43. The Judge of the High Court of Admiralty shall from Time to Time make such Rules, Orders, and Regulations as to the Practice and

and Mode of proceeding of the said Court, and as to the Conduct and Duty of the Officers and Practitioners therein, as to him shall seem fit, and from Time to Time to repeal or alter such Rules, Orders, or Regulations: Provided always, that no such Rules, Orders, or Regulations shall be of any Force or Effect until the same shall have been approved of by the Lord High Chancellor of Ireland for the Time being.

CLAUSE D. Power to appoint Persons under special Circumstances to administer Oaths, &c.

44. The Judge of the High Court of Admiralty may, whenever it shall appear to him necessary so to do, authorize any Person to administer Oaths, and to take Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations during the Time such Person shall be on the High Seas, or in any Place not within Her Majesty's Dominions, in or relating to Prize Proceedings in the said Court, and it shall not be necessary to affix any Stamp to the Fiat or Document by which any such Person shall be appointed.

CLAUSE E. Judge of Admiralty may appoint Solicitors and Notaries to administer Oaths, &c.

45. The Judge of the High Court of Admiralty may, and he is hereby empowered, from Time to Time, and as and when he may think fit, to appoint any Person practising as a Proctor, Solicitor, Attorney, or Notary Public in any Part of Ireland, to administer Oaths, and take Declarations, Affirmations, and Attestations, in or relating to any Matter, Suit, or Proceeding in the High Court of Admiralty; and such Persons shall be styled "Commissioners to "administer Oaths in Admiralty," and shall be entitled to charge and take a Fee of *One Shilling and Sixpence* for every Oath administered by them, and for every Declaration, Affirmation, and Attestation taken by them, subject to any Order of the Judge of the said Court varying or annulling the same.

CLAUSE F. Commissioner's Appointment to bear a Stamp of One Pound.

46. *The Fiat or Document by which any such Commissioner shall be appointed shall bear a Stamp of One Pound, and it shall not be necessary that any such Appointment should be published in the Dublin Gazette.*

CLAUSE G. Personal Answers may be taken without a Commission.

47. It shall not be necessary to sue out any Commission to take the personal Answers of any Party in any Matter, Suit, or Proceeding in the said Court; and any such Answers may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

CLAUSE H. Commission for Examination of Witnesses dispensed with, and

48. It shall not be necessary to sue out any Commission for the Examination of any Witnesses in any Matter, Suit, or Proceeding in the said Court; and any Examiner appointed by any Order of the said Court shall have the like Power of administering Oaths as Commissioners

Examiners empowered to administer Oaths.

missioners now have under Commissions issued by the Court for the Examination of Witnesses.

CLAUSE I. Answers, Affidavits, &c., how to be sworn and taken in Ireland.

49. All Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations in or relating to any Matter, Suit, or Proceeding in the said High Court of Admiralty, shall and may be sworn and taken in Ireland before any such Commissioner appointed as aforesaid, or before any Magistrate or Justice of the Peace, or before any Commissioner to administer Oaths in Chancery, where no such Commissioner has been appointed by the Court, or is to be found at the Time.

CLAUSE K. Answers, Affidavits, &c., how to be sworn and taken out of Ireland.

50 All Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations in or relating to any Matter, Suit, or Proceeding in the said High Court of Admiralty shall and may be sworn and taken in England, Scotland, or the Isle of Man, or the Channel Islands, or any of them, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Judge, Court, Magistrate, Notary Public, or Person lawfully authorized to administer Oaths in such Country, Island, or Plantation, or Place respectively, or before any of Her Majesty's Consuls or Vice Consuls in any Foreign Parts out of Her Majesty's Dominions: and the Judge and other Officers of the said High Court of Admiralty shall take judicial Notice of the Seal or Signature, as the Case may be, of any such Judge, Court, Magistrate, Notary Public, Person, Consul, or Vice Consul attached, appended, or subscribed to any such Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations, or the Documents to be used in the said Court.

CLAUSE L. Penalties for false swearing.

51. All Persons swearing, declaring, affirming, or attesting before any Person authorized by this Act to administer Oaths and take Declarations, Affirmations, and Attestations, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein, as if the Matter sworn, declared, affirmed, or attested before any Court or Person now by Law authorized to administer Oaths and take Declarations, Affirmations, and Attestations.

CLAUSE M. Penalty for forging Signature or Seal of Judge, &c.

52. If any Person shall forge the Signature or the official Seal of any such Commissioner, Judge, Court, Magistrate, Notary Public, or other Person lawfully authorized to administer Oaths and take Declarations, Affirmations, or Attestations under this Act, or shall tender in Evidence any Answers, Examination, Deposition on Oath, Declaration, Affirmation, Attestation, or other judicial or official Document

Document with a false or counterfeit Signature or Seal of any such Commissioner, Judge, Court, Magistrate, Notary Public, or other Person authorized as aforesaid, attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act to facilitate the Admission in Evidence of certain official and other Documents."

Clause N. Power of Judge to issue Commissions as heretofore to administer Oaths, &c.

53. Nothing herein contained shall abridge or lessen the Power of the Judge of the said High Court of Admiralty, as it now exists, to issue Commissions as heretofore, and to appoint fit Persons to administer Oaths, take Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations, and generally to execute any Commissions, nor shall affect in any Manner the Power of the Judge or Surrogates of the said Court to administer Oaths and take Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations as heretofore, in or relating to any Matter, Suit, or Proceeding in the said Court.

Protection of the Judge of Court of Admiralty.

54. No Action shall lie against the Judge of the said Court of Admiralty for Error in Judgment, and the said Judge shall be entitled to and have all the Privileges and Protection in the Exercise of his Jurisdiction as Judge of the said Court which by Law appertain to the Judges of Her Majesty's Superior Courts of Common Law in the Exercise of their several Jurisdictions.

Gaolers to receive Prisoners committed by Court of Admiralty.

55. The Keeper for the Time being of any Common Gaol or Prison shall be bound to receive or take into his Custody all Persons who shall be committed thereunto by the said Court of Admiralty, and every Keeper of any Gaol or Prison who shall refuse to receive into his Custody any Person so committed, or wilfully or carelessly suffer such Person to escape and go at large without lawful Warrant, shall be liable to the like Penalties and Consequences as if such Person had been committed to his Custody by any other lawful Authority.

Prisoners in Contempt may be discharged.

56. It shall be lawful for the Judge of the said Court of Admiralty to order the Discharge of any Person who shall be in Custody for Contempt of the said Court, or for any other Cause other than Nonpayment of Money, on such Conditions as to the Judge shall seem just: Provided always, that the Order for such Discharge shall not be deemed to have purged the original Contempt in case the Conditions on which such Order shall be made be not fulfilled.

 57. Any

Appeal to Court of Appeal in Chancery, and Bail given in Court of Admiralty good in Court of Appeal.

57. Any Person finding himself aggrieved by any final or interlocutory Decree or Order of the Court of Admiralty may appeal therefrom to the Court of Appeal in Chancery, and in any Cause in the High Court of Admiralty Bail may be taken to answer the Judgment, as well of the said Court as of the Court of Appeal, and the said High Court of Admiralty may withhold the Release of any Property under its Arrest until such Bail has been given; and in any Appeal from any Decree or Order of the High Court of Admiralty the Court of Appeal may make and enforce its Order against the Surety or Sureties who may have signed any such Bail Bond in the same Manner as if the Bail had been given in the Court of Appeal.

Jurisdiction of Court.

58. The Jurisdiction conferred by this Act on the High Court of Admiralty may be exercised either by Proceedings in rem or by Proceedings in personam.

Judge's Salary.

59. *There shall be paid to the Judge of the High Court of Admiralty instead of his present Salary the yearly Salary of Pounds, and such Salary shall be payable quarterly, and shall be charged upon and payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland:* Provided, that the Judge shall not, during his Continuance in Office as such Judge, practise as an Advocate or Barrister-at-Law, or be capable of being elected or sitting as a Member of the House of Commons.

Retiring Pension of Judge.

60. *Her Majesty by Letters Patent under the Great Seal of the United Kingdom may grant an Annuity not exceeding the yearly Sum of Pounds, to any Person who shall have executed the Office of Judge of the said Court, and shall have resigned the same, to be payable quarterly out of the said Consolidated Fund, to commence at the Time of the Resignation, and to continue during the Life of the Grantee: Provided, that no such Annuity shall be granted unless either the Grantee shall have been Judge of the said Court during a Period of Fifteen Years or unless such Person shall be afflicted with some permanent Infirmity disabling him from the due Execution of his said Office, which shall be distinctly recited in the said Grant: Provided always, that if the Grantee of such Annuity shall hold any other Office of Profit under Her Majesty, he shall be entitled to receive so much only of the said Annuity as, together with the Salary and Profit of such other Office, shall not exceed the Sum of Pounds.*

Registrar, &c., to be paid Salary.

61. And whereas the present Manner of remunerating the Registrar and Marshal of the Court of Admiralty ought not to be continued,

tinued, and it is expedient to make other Provision for the same, and for defraying the other Expenses incidental to the said Court, be it also enacted as follows: There shall be paid to the Registrar of the High Court of Admiralty out of the Fee Fund herein-after mentioned the yearly Salary of Pounds, instead of all Fees, Dues, Perquisites, Emoluments, and Profits herein-before recited by or on account of such Registrar.

62. The Marshal of the High Court of Admiralty shall receive out of the Fee Fund herein-after mentioned a yearly Salary of Pounds, besides such Travelling and other Expenses necessarily incurred in the Execution of his Duty, as the Judge of the Admiralty with the Approbation of the Commissioners of Her Majesty's Treasury shall allow, instead of all Fees, Dues, Perquisites, Emoluments, and Profits heretofore received by or on account of such Marshal. The Marshal to be paid Salary.

63. The Seal Keeper of the High Court of the Admiralty shall be, and he is hereby constituted and appointed, the Secretary of the Judge of the said Court; and for the due Discharge of the Duties of both the said Offices he shall receive, out of the Fee Fund herein-after mentioned, the yearly Sum of Pounds, instead of all Fees, Perquisites, and Emoluments of his said Office of Seal Keeper. Clause O. Appointment of Seal Keeper as Judge's Secretary.

64. The Judge of the High Court of Admiralty shall, subject to the Approbation of the Lord Chancellor, continue or appoint so many Officers, Clerks, and Servants as may be necessary for carrying on the Business of the said Court; and the said Judge may, with the like Approval, remove at pleasure all or any of the Clerks, Officers, and Servants so appointed; and the Commissioners of Her Majesty's Treasury shall fix the Salaries of all such Officers, Clerks, and Servants; and the Salaries of the said Officers, Clerks, and Servants, and all other Expenses of carrying on the Business of the said Court not otherwise provided for, shall be paid out of the Fee Fund herein-after mentioned, and shall be allowed in the Account to be rendered by the Registrar as herein-after provided. Clerks, &c. to be appointed by the Judge.

65. The said Salaries and Annuities shall be paid by Four equal quarterly Payments, on the Fifth Day of January, the Fifth Day of April, the Fifth Day of July, and the Tenth Day of October in every Year; provided that the Payment to be made in each Case on the first of the said quarterly Days which shall happen after the Accrual of the Right thereunto of the Person receiving the same under the Act shall be a rateable Proportion of a Quarter's Salary according to the Time then elapsed since the Accrual of such Right; and in case of Vacancy in the Office of any Judge, Registrar, or Marshal, or of any Salaries and Annuities how to be paid.

any Clerk, Officer, or Servant, receiving a Salary under this Act, whose Salary is fixed by the Act of the Court of Admiralty, the Person making the Vacancy, his Executors or Administrators, shall be entitled to a proportional Part of his quarterly Salary according to the Time elapsed between the Vacancy and the last quarterly Payment.

Office of Registrar not to be executed by Deputy except in case of Illness.

66. From and after the *passing of this Act* the Office of Registrar of the High Court of Admiralty shall not be executed by Deputy except in case of Illness or Absence of the Registrar for any reasonable Cause, to be allowed by the Judge, but the Registrar shall by himself personally execute the Duties thereof: Provided always, that it shall be lawful for the said Registrar, by Writing under his Hand, to appoint a Deputy to act for him in case of his Absence from Illness or other reasonable Cause allowed by the Judge, but such Deputy, before such Appointment be valid, must be in the first instance approved of by the said Judge as a fit and proper Person to be so appointed, and no such Deputy shall continue to act for any longer Time than shall be allowed and specified in and by the Order which shall be made on each such Occasion by the Judge of the Court of Admiralty; provided that in case any Registrar of the said Court who shall be prevented by Illness from giving his personal Attendance shall omit for the Space of *Two* Days to appoint such Deputy, the Judge of the Court of Admiralty shall, if he shall see fit, himself appoint such Deputy, and direct in all Cases what Part of the Salary of such Registrar shall be received by such Deputy, and the same shall be paid over to and received by him accordingly.

Appointment of Registrar.

67. Any Advocate, Barrister-at-Law, Proctor, Attorney, or Solicitor of *Ten* Years Standing may be appointed Registrar of the said Court.

No Officer of the Court to practise therein.

68. No Registrar or Deputy Registrar, if such Deputation continue for any Time longer than *One Calendar Month*, nor the Marshal, nor any Officer or Clerk of the said High Court of Admiralty, shall, during the Time of his holding such Office, directly or indirectly practise as an Advocate, Barrister, Proctor, Solicitor, or Attorney in the said Court, or receive or participate in the Fees of any other Person so practising therein.

Compensation of Proctors.

69. *Whereas the Number of Persons entitled to practise as Proctors of the said Court of Admiralty does not exceed Six Persons, and the Fees or Emoluments of the said Proctors may be damaged by the Abolition of the exclusive Rights and Privileges which they have hitherto enjoyed as such Proctors in the said Court: Be it enacted, That the Commissioners of Her Majesty's Treasury, by Examination on Oath or otherwise, which Oath they are hereby authorized to administer,*

administer, may inquire into, and may, by the Production of such Evidence as they shall think fit to require, ascertain and absolutely determine the nett annual Amount of the Profits arising from the Transaction of Business by Proctors, on Matters and Causes in such Admiralty Court, on an average of Five Years immediately preceding the Commencement of this Act, and shall award to each and every such Proctor a Sum of Money or annual Payment during the Term of his natural Life, of such Amount as shall be equal in Value to One Half of the net Profits derived by such Proctor in respect of Matters and Causes in the said Court of Admiralty, upon the said Average of Five Years immediately preceding the Commencement of this Act.

Admission of Proctors as Solicitors.

70. Every Person who at the Time of the *passing of this Act* or within *Six* Calendar Months afterwards is actually admitted and practising or entitled to practise as a Proctor of the High Court of Admiralty may within *One Year* after the passing of this Act be admitted without the Payment of any Stamp Duty, Fee, Charge, or Gratuity whatsoever as a Solicitor of the High Court of Chancery, upon the Production of an official Certificate that such Admission continued in force at the Time of the passing of this Act or within *Twelve* Months afterwards; and upon signing the Roll of Solicitors of the High Court of Chancery, but not otherwise, shall be entitled to be admitted as a Solicitor of such Court, and to be afterwards in like Manner admitted and enrolled as an Attorney of Her Majesty's Superior Courts; and all the Provisions of the Act Twenty-fourth and Twenty-fifth Victoria, Chapter Sixty-eight, shall relate to Proctors of the said Admiralty Court and their Apprentices or Articled Clerks fully to all Intents and Purposes, as if they were named therein in every Place where in the said Act Attorneys and Solicitors are referred to.

Suitors Money to be lodged in the Bank of Ireland.

71. All Money of the Suitors of the Court of Admiralty shall be lodged under Orders of the Court to be made from Time to Time in the Bank of Ireland, to an Account there to be opened in the Name of the Registrar of the High Court of Admiralty of Ireland ex parte the Cause or Matter in which such Order may be made, and the same shall not be drawn out therefrom save under Order of the Court, with the Cheque or Draft of the said Registrar endorsed on the said Order, and countersigned by the Judge of the Court of Admiralty.

Registrar to account annually for all Fees received by him.

72. The Registrar of the High Court of Admiralty shall, on or before the *Twentieth Day of January* in every Year, render to the Commissioners of Her Majesty's Treasury upon Oath, to be sworn before the Judge of the High Court of Admiralty or a Surrogate of

the said Court, a true Account in Writing of the gross and nett Amount of all such Fees and Emoluments as shall have become due in the preceding Year ending on the *First January* on account of the Judge of the said Court, by virtue of his Office as such Judge, or on account of the Marshal or any other Officer of the said Court, specifying the Particulars of the Payments, Disbursements, Allowances, and Charges constituting the Difference between the gross and nett Amounts, and also a like Account of all the Fees, Dues, Perquisites, Emoluments, and Profits received by or on account of or for the Registrar of the said Court of Admiralty; the Marshal, Seal Keeper, and every other Officer of the Court in the Receipts for Business done in the said Court, shall render to the Registrar on Oath, to be sworn before the Judge or a Surrogate of the Court, a true Account in Writing of all the Fees respectively secured by each of them at such Times and subject to such Regulations as the Court shall from Time to Time think fit to direct.

Fees to be carried to Fee Fund.

73. All the Fees so received on account of the Judge and Marshal or any other Officer of the Court of the said High Court of Admiralty, and also all the Fees, Dues, Emoluments, Perquisites, and Profits received by or on account of the Registrar, after the Expiration of the Interest at present vested in possession in the said Office of the Registrar, shall be carried by the Registrar to an Account to be opened and kept in the Bank of Ireland of a Fund to be called "The Fee Fund of the High Court of Admiralty," and out of the said Fee Fund there shall be paid by the said Registrar, at the Times and in the Manner herein-before directed, the Salaries of the Registrar, Assistant Registrar, and Marshal, and of the Clerks, Officers, and Servants of the said Court, and all Expenses of holding and carrying on the Business of the said Court not otherwise provided for; and in case there shall be at any Time a Deficiency in the said Fee Fund, so that the same shall not be sufficient to discharge the several Salaries and Sums of Money herein-before charged thereon, the Judge of the High Court of Admiralty shall, by Writing under his Hand and Seal, certify to the Commissioners of Her Majesty's Treasury the Amount of such Deficiency, *and the said Commissioners shall forthwith, upon the Receipt of such Certificate, direct that there be issued and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, to the Principal or Deputy Registrar of the said Court, on account of the Fee Fund of the said Court, such a Sum of Money as shall be sufficient to cover the Deficiency so certified to them as aforesaid.*

Surplus to be carried to the Conso-

74. When and so often from Time to Time as the said Fee Fund shall amount to such a Sum as shall be sufficient to pay all the Salaries

Salaries and Sums of Money herein-before charged thereupon, and there shall be a Surplus remaining after such Payment, the Registrar of the High Court of Admiralty shall, once in every Quarter of a Year, (that is to say,) on or before the Twentieth Day of April, the Twentieth Day of July, the Twentieth Day of October, and the Twentieth Day of January, pay such Surplus, if any, into the Bank of Ireland to the Credit of Her Majesty's Exchequer, to the Account of the said Consolidated Fund. lidated Fund.

75. *It shall be lawful for the Commissioners of Her Majesty's Treasury, and they are hereby authorized and required to direct the several Payments aforesaid to be made out of the Consolidated Fund.* Treasury by Warrants to direct Payment out of the Consolidated Fund.

76. Neither the Judge, nor any Registrar, Assistant to the Registrar, Deputy Registrar, or Marshal or Seal Keeper, of the Court of Admiralty shall be entitled to or to take for his own Use or Benefit, directly or indirectly, any Fee or Emolument whatsoever, save the Salary, Allowance, or Annuity to which he shall be entitled by virtue of this Act. Judge, Registrar, &c. not to receive Fees on their own Account.

77. In case the said Commissioners of Her Majesty's Treasury shall be dissatisfied with any Account to be rendered to them as aforesaid, it shall be lawful for him or them to refer the same to the Judge of the High Court of Admiralty, who shall thereupon, by such Ways and Means and by the Examination of such Persons as they or he shall think fit, and upon Oath, if he or they shall think the same necessary (which he or they is, and are hereby authorized to administer) inquire into the said Accounts, or any Entry therein, and all or any of the Disbursements, Allowances, or Charges therein contained, and make such Allowances and Disallowances therein as he or they shall think reasonable, and shall finally settle and certify in Writing the net Amount of the Fees and Emoluments to which such Account relates. Accounts may be referred to Judge of High Court of Admiralty.

78. The Lord Lieutenant or other chief Governor or Governors of Ireland, by and with the Advice of the Privy Council, may by Order in Council from Time to Time vary, alter, or abolish all or any of the Fees payable to the Office of Judge, Registrar, or Marshal in relation to Proceedings in the Court of Admiralty, and may substitute One or more Fee or Fees in lieu thereof, *and may direct that all or any of such Fees shall, from a Day to be named in such Order and thenceforth, be collected by means of Stamps, to be provided and used in manner herein-before mentioned.* Lord Lieutenant may by Order in Council vary, alter, or abolish Fees, and provide for their Collection by Stamps.

79. *From and after the Day named in such Order the Fees directed by such Order to be received by Stamps shall not be received* After such Order Fees not to be re-

Fees received in Money but by means of Stamps.

in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable, and where any Fee shall be payable in respect of any Document, and under such Regulations as shall by any Order of the Judge of the said Court be directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceeding.

Commissioners of Inland Revenue to give the necessary Directions as to the Stamps, and to keep separate Accounts.

80. *The Commissioners of Inland Revenue shall from Time to Time and on Occasion shall require give the necessary Directions for carrying the same into effect, and shall provide everything that is requisite for that Purpose, and shall do or cause to be done everything that is necessary for the Receipt and Collection of the Money to be paid for such Stamps, and the said Commissioners shall cause separate and distinct Accounts of all Sums of Money received or collected by them in respect of the Sale of such Stamps, and of all Costs, Charges, and Expenses incurred by them or by their Direction in carrying the same into effect.*

Provision for Sale of Stamps.

81. *The Commissioners of Inland Revenue may, if they think it necessary to do so, authorize proper Persons for the Sale and Distribution of all or any of the Stamps to be used under this Act, and may allow to such Persons the usual or customary Discount or Poundage thereon.*

Commissioners of Inland Revenue to make Regulations as to spoiled Stamps.

82. *The Commissioners of Inland Revenue shall from Time to Time make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which through Mistake or Inadvertence may have been improperly or unnecessarily used, and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on Stamps of the like Kind.*

Several Stamp Acts to be in force.

83. *The Provisions contained in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall (so far as the same are applicable and consistent with the Provisions of this Act), in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under and by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be affixed, and put in execution for collecting and securing the Sums of Money denoted thereby,*

thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.

No Document to be received or used unless stamped.

84. *No Document which by any Order as aforesaid ought to have had a Stamp impressed thereon or affixed thereto shall be received or filed or be used in relation to any Proceeding in the High Court of Admiralty, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, the Judge of the said Court may, if he shall think fit, order that a Stamp not exceeding in Value Four Times the Amount of such original Stamp shall be impressed thereon or affixed thereto and thereupon, when the proper Stamp shall in compliance with such Order have been impressed on such Document or affixed thereto, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed.*

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed.

85. *If any Officer of the High Court of Admiralty or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, any such Officer or Person so offending may be dismissed from his Office or Employment by the Judge of the said Court.*

Power to Treasury to order Pensions for retiring Officers.

86. It shall be lawful for the Commissioners of Her Majesty's Treasury, on the Recommendation of the Judge of the High Court of Admiralty, to order to be paid to any Person now or hereafter holding any Office or Employment in the said Court, who shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, or shall be desirous of resigning the same, a Superannuation or Allowance; and in ascertaining and awarding the Amount of such Superannuation or Allowance, the said Commissioners shall proceed according to the Principle laid down in the Act of the

Fourth and Fifth Years of King William the Fourth, Chapter Twenty-four.

Provisions to extend to Instance, Prize, and other Matters.

87. Except where it shall be otherwise expressed, the Provisions of this Act shall apply to all Instances, Prize and other Matters, Suits, and Proceedings of which the High Court of Admiralty may legally take cognizance.

SCHE-

SCHEDULE to which this Act refers.

References to Act.	Title of Act.	Extent of Repeal.
23 & 24 Geo. 3. c. 14. Irish.	An Act for regulating the High Court of Admiralty in this Kingdom.	Section 3.
40 Geo. 3. c. 69.	An Act to enable His Majesty to grant Annuities to the Lord High Chancellor, and to the Judges, &c., and to the Judge of the Court of Admiralty.	Section 2, so far as relates to the Salary of the Judge of the Admiralty.
2 & 3 Will. 4. c. 116.	An Act to provide for the Salaries of certain High and Judicial Officers, and of Payments heretofore made out of the Civil List Revenue.	Section 1, so far as relates to the Salary of the Judge of the Admiralty, and Section 2, so far as relates to the Fees of the Judge of the Admiralty.

(Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To alter and amend the Procedure and Practice of the Court of Admiralty in Ireland.

(*Prepared and brought in by Mr. Maguire and Mr. Longfield.*)

Ordered, by The House of Commons, *to be Printed,* 28 *May* 1863.

[Bill 141.]

Under 3 *oz.*

A

B I L L

TO

Allow certain Persons to make Affirmations in all Cases where an Oath is or shall be required.

WHEREAS there are in Her Majesty's Dominions certain Persons who, from conscientious Motives, refuse or are unwilling, or who, from Defect or Want of Religious Knowledge and Belief, are unable, to take an Oath in Courts of Justice and other Places, and in consequence thereof are exposed to great Losses and Inconveniences in their Trade and Concerns, and are subject to Fines and to Imprisonment for Contempt of Court; and the Community at large are deprived of the Benefit of their Testimony: And whereas it is therefore expedient that such Persons respectively should be relieved in manner herein-after mentioned: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. If any Person who shall be required on any lawful Occasion to take an Oath in any Case where an Oath is or shall be required, either by the Common Law, or by any Act of Parliament already made or hereafter to be made, shall refuse or be unwilling, from alleged conscientious Motives, to be sworn, it shall be lawful for the Court or Judge or other presiding Officer, or for the Person in each Case duly Certain Persons to be allowed to make Affirmation when an Oath is now required.

duly authorized to administer Oaths, as the Case may be, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following; *videlicet*,

'I *A.B.* do solemnly, sincerely, and truly affirm and declare that the taking of an Oath is, according to my Religious Belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare, *&c.*'

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

Children and Persons of defective Religious Belief to testify on simple Affirmation.

2. Any Person who by reason of immature Age or Want of Religious Belief, or who by reason of Defect of Religious Belief, ought not, in the Opinion of the Court or Judge or other presiding Officer, or Person duly authorized to administer Oaths, to be admitted to give Evidence on Oath or solemn Affirmation, shall be admitted to give Evidence on a simple Affirmation declaring that he will speak the Truth, the whole Truth, and nothing but the Truth.

Provisions as to Witness to apply to Affidavits, &c

3. The Provisions in the last preceding Section as to Witnesses shall apply to Testimony given by Affidavit or otherwise in Writing, as well as to Testimony orally delivered.

Punishment for making false Affirmation.

4. If any Person making any Affirmation or Declaration under the Provisions of this Act shall wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

5. This Act may be cited for all Purposes as "The Affirmations Act, 1863."

A

BILL

TO

Carry into effect an additional Article to the Treaty of the Seventh Day of April One thousand eight hundred and sixty-two, between Her Majesty and the United States of America, for the Suppression of the African Slave Trade.

WHEREAS on the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two a Treaty was concluded and signed at Washington, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, for the Suppression of the African Slave Trade: And whereas by the First Article of such Treaty it was stipulated and agreed that those Ships of the respective Navies of the Two High Contracting Parties which shall be provided with special Instructions for that Purpose as therein-after mentioned may visit such Merchant Vessels of the Two Nations as may upon reasonable Grounds be suspected of being engaged in the African Slave Trade, or of having been fitted out for that Purpose, or of having, during the Voyage on which they are met by the said Cruizers, been engaged in the African Slave Trade, contrary to the Provisions of the said Treaty, and that such Cruizers may detain and send or carry away such Vessels in order that they may be brought Preamble.

brought to Trial in the Manner therein-after agreed upon: And whereas it was by the said Article further stipulated and agreed that the reciprocal Right of Search and Detention should be exercised only within the Distance of Two hundred Miles from the Coast of Africa, and to the Southward of the Thirty-second Parallel of North Latitude, and within Thirty Leagues from the Coast of the Island of Cuba: And whereas the Two High Contracting Parties have agreed that the reciprocal Right of Visit and Detention as defined in the Article aforesaid may be exercised also within Thirty Leagues of the Island of Madagascar, within Thirty Leagues of the Island of Puerto Rico, and within Thirty Leagues of the Island of San Domingo: And whereas the High Contracting Parties have further agreed that the present additional Article shall have the same Force and Validity as if it had been inserted Word for Word in the Treaty concluded between the Two High Contracting Parties of the Seventh of April One thousand eight hundred and sixty-two, and shall have the same Duration as that Treaty, and that it shall be ratified, and the Ratifications shall be exchanged at London in Six Months from this Date, or sooner if possible. In witness whereof the respective Plenipotentiaries have signed the same, and have thereunto affixed the Seal of their Arms. Done at Washington the Seventeenth Day of February in the Year of our Lord One thousand eight hundred and sixty-three.

(L.S.) LYONS.
(L.S.) WILLIAM H. SEWARD.

And whereas Ratifications were exchanged at London, April First, One thousand eight hundred and sixty-three: And whereas it is expedient that Provision should be made for giving Effect to the present additional Article: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Where Right of Search may be exercised.

1. That the reciprocal Right of Search and Detention as defined in the First Article of the said Treaty may be exercised also within *Thirty* Leagues of the Island of Madagascar, within *Thirty* Leagues of the Island of Puerto Rico, and within *Thirty* Leagues of the Island of San Domingo.

Additional Article to have the same Force and Duration as the Treaty.

2. That the present additional Article shall have the same Force and Validity as if it had been inserted in the Treaty concluded between the Two High Contracting Parties on the Seventh of April One thousand eight hundred and sixty-two, and shall have the same Duration as that Treaty.

3. That

3. That this Act and the African Slave Trade Treaty Acts, Nos. 1 and 2, 1862, shall be read and construed as One Act. Consolidation of Acts.

4. This Act may for all Purposes be cited as the "African Slave Trade Treaty Act, 1863." Title of Act.

African Slave Trade Treaty.

A

BILL

To carry into effect an additional Article to the Treaty of the Seventh Day of April One thousand eight hundred and sixty-two, between Her Majesty and the United States of America, for the Suppression of the African Slave Trade.

(*Prepared and brought in by Viscount Palmerston and Mr. Layard.*)

Ordered, by The House of Commons, *to be Printed*, 29 *May* 1863.

[Bill 144.]

Under 1 *oz.*

11 *February* 1863. 26 Vict.

A

BILL

FOR

The better Prevention of aggravated Assaults upon Women and Children.

WHEREAS the present Law has been found insufficient for the Protection of Women and Children from violent Assaults: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The Forty-third Section of the Act passed in the Session of Parliament of the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter One hundred, intituled "An Act to consolidate and amend the Statute Law of England and Ireland, relating to Offences against the Person," shall be and is hereby repealed. Section 43 of 24 & 25 Vict. c. 100. repealed.

2. When any Person shall be charged before any Two Justices of the Peace sitting at a Place where the Petty Sessions are usually held, or before any Magistrate of a Police Court of the Metropolis sitting at any such Police Court, or before any Stipendiary Magistrate elsewhere, Punishment for aggravated Assaults on Women and Children.

where, with an Assault upon any Female whatever, or upon any Male Child whose Age shall not, in the Opinion of the said Justices or Police or Stipendiary Magistrate, exceed *Fourteen* Years, it shall be lawful for the said Justices or Police or Stipendiary Magistrate, if the Assault be of such an aggravated Nature that it cannot, in their or in his Opinion, be sufficiently punished under the Provisions of the Statute Ninth George the Fourth, Chapter Thirty-one, to proceed to hear and determine in a summary Way, and if they or he shall find the same to be proved, to convict the Person accused; and every Person so convicted shall be liable to be imprisoned in a Common Gaol or House of Correction, with or without Hard Labour, for any Period not exceeding *Six* Calendar Months, and shall enter into Recognizances, with Two sufficient Securities, to keep the Peace and be of good Behaviour for the Period of *Six* Calendar Months from the Expiration of such Sentence; and whosoever having been *twice* convicted of any such Offence as aforesaid shall afterwards commit any such Offence shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned in a Common Gaol or House of Correction, with or without Hard Labour, for any Period not exceeding *Three* Years, and if the said last-mentioned Justices shall so think fit, the Person, if a Male, so convicted, shall be *once* privately whipped with not more than *Forty-eight* Lashes.

Court may award Costs.

3. Where any Person shall be convicted of any Assault as aforesaid such Person may, if the Court think fit, in addition to any Sentence which the Court may deem proper for the Offence, be adjudged to pay to the Prosecutor his actual and necessary Costs and Expenses of the Prosecution, and such moderate Allowance for the Loss of Time as the Court shall by Affidavit or other Inquiry and Examination ascertain to be reasonable; and, unless the Sum so awarded shall be sooner paid, the Offender shall be imprisoned for any Term the Court shall award, not exceeding *Three* Months, in addition to the Term of Imprisonment to which the Offender may be sentenced for the Offence.

19 *May* 1863. 26 Vict.

A

B I L L

INTITULED

An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works.

WHEREAS it is expedient to provide for the better Condensation of the Muriatic Acid Gas evolved in Alkali Works: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Preliminary.

1. This Act may be cited as the "Alkali Act, 1863." Short Title.

2. This Act shall come into operation on the First Day of January One thousand eight hundred and sixty-four. Commencement of Act.

3. The Term "Alkali Work," as herein-after used, shall mean every Work in which Muriatic Acid Gas is evolved: Interpretation Clause.

The Term "Owner," as herein-after used, shall include the Lessee or Occupier or any other Person carrying on or directly or indirectly interested in the carrying on of any Alkali Work:

The Term "the Inspector" shall mean the Inspector to be appointed under this Act.

Alkali Works.

Conduct of Alkali Works.

4. Every Alkali Work shall be carried on in such Manner as to secure the Condensation to the Satisfaction of the Inspector or Sub-Inspector of not less than Ninety-five per Centum of the Muriatic Acid Gas evolved therein: Provided always, that nothing herein contained shall entitle the Inspector to direct any Alteration to be made in the Process of Manufacture or the Apparatus used therein.

If any Alkali Work is carried on in contravention of this Section, the Owner of that Work shall be deemed to be guilty of an Offence against this Act, and to be subject in respect of each such Offence to a Penalty not exceeding Fifty Pounds; and in respect of every Offence after a previous Conviction, not exceeding One hundred Pounds; and in respect of a continuing Offence, after Notice from the Inspector, to a Penalty not exceeding Thirty Pounds nor less than Five Pounds for every Day during which the Alkali Work is carried on in contravention of this Section.

Registration of Alkali Works.

5. No Alkali Work shall at any Time after the Expiration of Three Months after the Appointment of the Inspector be carried on or prosecuted until such Work has been registered by the Owner with the Inspector. In every Register hereby required to be made there shall be inserted the Name in full of the Owner, of the Parish or Township in which the Work is situate, and the Name or Names of the Articles intended to be produced at the Work to which such Register relates, and within One Month after Change of Ownership in any such Work the Register of such Work shall be amended by inserting the Name of the new Owner.

Inspectors.

Appointment of Inspectors.

6. For the Purpose of carrying into effect the Provisions of this Act, the Board of Trade may from Time to Time appoint any fit and proper Person to be Inspector of Alkali Works under this Act, and may from Time to Time remove any Inspector so appointed, and appoint another Person in his Place. The Board of Trade may also, on Application of the Inspector, from Time to Time appoint and remove such Sub-Inspector or Sub-Inspectors as the said Board may deem necessary for the Purpose of carrying this Act into effect. Notice of the Appointment of such Inspector and Sub-Inspectors shall be published in the London Gazette, and a Copy of the Gazette shall be Evidence of the Appointment made.

Persons disqualified from being Inspector.

7. No Person either directly or indirectly acting or practising as a Land Agent, or directly or indirectly engaged in any Manufacture, or interested in any Patent in or according to which the Decomposition of Salt or the Condensation of Muriatic Acid Gas may be effected, shall act as an Inspector or Sub-Inspector under this Act.

8. It

8. It shall be the Duty of every Inspector under this Act to ascertain from Time to Time that all the Alkali Works are carried on in conformity with the Provisions of this Act, and to enforce the said Provisions; and with a view to the Performance of that Duty he or any Sub-Inspector may at all reasonable Times, by Day and by Night, without giving previous Notice, but so as not to interrupt the Process of the Manufacture, enter upon and inspect any Alkali Work, and examine into the Efficiency of the Condensing Apparatus, and the Quantity of Muriatic Acid Gas condensed, and generally into all Matters and Works tending to show Compliance or Non-compliance with the Provisions of this Act. And the Owner of such Works, upon Demand of the Inspector, shall within a reasonable Time furnish him with a Plan, to be kept secret by such Inspector, of those Parts of such Works in which the Decomposition of Salt or other Process causing the Evolution of Muriatic Acid Gas or the Condensation thereof is carried on. Duties and Powers of Inspector.

It shall be lawful for the Inspector or any Sub-Inspector under his Direction, but so as not to interfere with the Process of the Manufacture, to apply any Tests or make any Experiments he may think proper for the Purpose of ascertaining the Efficiency of the Condensing Apparatus, or the Quantity of Gas condensed; and the Owner or Agent of the Works shall be deemed to be guilty of an Offence against this Act unless he renders to the said Inspector or Sub-Inspector all necessary Facilities for their Entry, Examination, and Testing.

9. Every Person who wilfully obstructs any Inspector or Sub-Inspector in the Execution of this Act, and every Owner of any Alkali Work who refuses or neglects to afford to the Inspector or Sub-Inspector the Facilities necessary for making any Entry, Inspection, Examination, or Testing under this Act, or who neglects or wilfully violates any Provision of this Act, for the Neglect or Violation of which no other Penalty is by this Act imposed, shall be guilty of an Offence within the Meaning of this Act, and shall for every such Offence incur a Penalty not exceeding Ten Pounds. General Penalties on Violation of Act.

10. The Inspector shall, on or before the First Day of March in every Year, make a Report in Writing to the Board of Trade of his Proceedings during the preceding Year, and a Copy of such Report shall be laid before both Houses of Parliament. Inspector to report to Parliament.

Special Rules.

11. The Owner of any Alkali Work may, with the Sanction of the Board of Trade, make, alter, or repeal Special Rules for the Guidance of such of his Workmen as are employed in any Process causing the Power of Owner to make Special Rules.

Evolution of Muriatic Acid Gas, or whose Duty it is to attend to the Apparatus used in the Condensation of that Gas, and may annex Penalties to any Violation of such Rules, so that no Penalty exceeds Two Pounds for any One Offence.

A printed Copy of the Special Rules in force in any Alkali Work shall be given by the Owner of the Work to every Person working or employed in or about that Work affected thereby.

Penalties.

Recovery of General Penalties.

12. In England and Ireland any Offence under this Act, with the Exception of Offences against a Special Rule, shall be prosecuted at the Court of General or Quarter Sessions having Jurisdiction in the Place where the Offence is committed, upon an Information or Complaint on a Summons signed by a Justice of the Peace having Jurisdiction in that Place and returnable at such Court, every such Information or Complaint to be made or laid within Two Calendar Months after the Commission of the Offence, and the Court shall hear and determine the Case in a summary Way without a Jury, and may award Costs to either Party, and any Order made by the Court may be enforced in the same Way in which Orders made within its ordinary Jurisdiction are enforceable.

In Scotland any Offence under this Act, with the Exception of Offences against a Special Rule, shall be prosecuted at the Instance of the Procurator Fiscal before a Sheriff or Sheriff Substitute, and the said Sheriff or Sheriff Substitute having cognizance of such Offence may sentence the Offender to Imprisonment for a Period not exceeding Three Months, until the Penalty and the Expenses of Conviction are paid.

All Penalties recovered under this Section shall be applied in the same Manner in which Penalties incurred in respect of Offences against a Special Rule are directed to be applied by the Acts hereinafter referred to.

Recovery of Penalties for Offences against Special Rule.

13. All Penalties incurred under this Act in respect of any Offence against a Special Rule may be recovered summarily in England and Ireland before Two or more Justices; as to England, in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act to facilitate the Performance of the "Duties of Justices of the Peace out of Sessions within England and "Wales with respect to summary Convictions and Orders," or any Act amending the same; as to Ireland, in manner directed by the Act passed in the Session holden in the Fourteenth and Fifteenth Years of the Reign of Her Majesty Queen Victoria, Chapter Ninety-three,

three, intituled " An Act to consolidate and amend the Acts regu-
" lating the Proceedings of Petty Sessions, and the Duties of Justices
" of the Peace out of Quarter Sessions, in Ireland," or any Act amending the same; and in Scotland, before the Sheriff or Two Justices in manner directed by " The Railways Clauses Consolidation, Scotland, Act, 1845," with respect to Penalties imposed by that Act the Recovery of which is not otherwise provided for.

Alkali Works Regulation.

A

BILL

INTITULED

An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works.

(*Brought from the Lords* 30 *April* 1863.)

Ordered, by The House of Commons, *to be Printed,* 19 *May* 1863.

[Bill 135.]

Under 1 *oz.*

8 *July* 1863. 26 & 27 Vict.

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works.

WHEREAS it is expedient to provide for the better Condensation of the Muriatic Acid Gas evolved in Alkali Works: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Preliminary.

1. This Act may be cited as the "Alkali Act, 1863." Short Title.

2. This Act shall come into operation on the First Day of January One thousand eight hundred and sixty-four. Commencement of Act.

3. The Term "Alkali Work," as herein-after used, shall mean every Work for the Manufacture of Alkali, Sulphate of Soda, and Sulphate of Potash in which Muriatic Acid Gas is evolved: Interpretation Clause.

The Term "Owner," as herein-after used, shall mean the Lessee or Occupier or any other Person carrying on any Alkali Work:

The Term "the Inspector" shall mean the Inspector to be appointed under this Act.

Alkali Works.

Conduct of Alkali Works.

4. Every Alkali Work shall be carried on in such Manner as to secure the Condensation to the Satisfaction of the Inspector, derived from his own Examination or from that of a Sub-Inspector of not less than Ninety-five per Centum of the Muriatic Acid Gas evolved therein: Provided always, that nothing herein contained shall entitle the Inspector to direct any Alteration to be made in the Process of Manufacture or the Apparatus used therein.

If any Alkali Work is carried on in contravention of this Section, the Owner of that Work shall, on its being made to appear to the Court before which any Proceedings for Recovery of a Penalty may be instituted that Ninety-five per Centum at least of the Muriatic Acid Gas evolved in such Work in any One Period of Four Hours has not been condensed, be deemed to be guilty of an Offence against this Act, and be subject in respect of the First Conviction to a Penalty not exceeding Fifty Pounds, and in respect of every Offence after a previous Conviction to a Penalty not exceeding One hundred Pounds: Provided always, that no such Owner shall be convicted of more than One such Offence in respect of any One Day: Provided also, that no such Penalty shall be inflicted unless the Inspector shall produce before the Court having cognizance of the Matter a Statement in Writing of the Facts on which he founds his Opinion that Ninety-five per Centum of the Muriatic Acid Gas evolved in the Alkali Work is not condensed therein, and serve a Copy thereof with the Process commencing the Proceedings.

Clause A. Owner to be liable for Offences in the first instance.

5. The Owner of any Alkali Work in which any Offence against this Act has been proved to have been committed and for which a pecuniary Penalty may be imposed, shall in every Case (save as herein-after provided) be deemed, in the first instance, to have committed the Offence, and shall be liable to pay the Penalty; but any Owner who shall have been proceeded against shall be entitled to have any Agent, Servant, or Workman whom he shall charge as the actual Offender brought by due Process of Law before the Court at the Time appointed for hearing the Case made against such Owner; and if after the Commission of the Offence has been proved the Owner shall prove to the Satisfaction of the Court that he had used due Diligence to comply with and to enforce the Execution of the Act, and that the said Agent, Servant, or Workman had committed the Offence in question without his Knowledge, Consent, or Connivance, the said Agent, Servant, or Workman, if he has been brought by Summons before the Court as aforesaid, may be convicted of such Offence, and shall pay the Penalty instead of the Owner, and the Payment of such Penalty and Costs shall be enforced against the

the Agent, Servant, or Workman in like Manner as Penalties are made recoverable by this Act: Provided, that when it shall be made to appear to the Satisfaction of the Inspector at the Time of discovering the Offence that the Owner had used all due Diligence to comply with and to enforce the Execution of this Act, and also by what Person such Offence had been committed, and also that it had been committed without the personal Consent, Connivance, or Knowledge of the Owner, and in contravention of his Orders, then the Inspector shall proceed against the Person whom he shall believe to be the actual Offender in the first instance without first proceeding against the Owner.

Registration of Alkali Works.

6. No Alkali Work shall at any Time after the Expiration of Three Months after the Appointment of the Inspector be carried on or prosecuted until such Work has been registered by the Owner with the Inspector. In every Register hereby required to be made there shall be inserted the Name in full of the Owner, and of the Parish or Township in which the Work is situate, and within One Month after Change of Ownership in any such Work the Register of such Work shall be amended by inserting the Name of the new Owner, and if any Alkali Work is carried on in contravention of this Section, the Owner thereof shall, on Conviction, be deemed to be guilty of an Offence against this Act, and shall be subject to a Penalty not exceeding Five Pounds for every Day during which such Work shall have been so carried on.

Inspectors.

Appointment of Inspectors.

7. For the Purpose of carrying into effect the Provisions of this Act, the Board of Trade may from Time to Time appoint any fit and proper Person to be Inspector of Alkali Works under this Act, and may from Time to Time remove any Inspector so appointed, and appoint another Person in his Place. The Board of Trade may also, on Application of the Inspector, from Time to Time appoint and remove such Sub-Inspector or Sub-Inspectors as the said Board may deem necessary for the Purpose of carrying this Act into effect. Notice of the Appointment of such Inspector and Sub-Inspectors shall be published in the London Gazette, and a Copy of the Gazette shall be Evidence of the Appointment made.

Persons disqualified from being Inspector.

8. No Person either directly or indirectly acting or practising as a Land Agent, or directly or indirectly engaged in any Manufacture, or interested in any Patent in or according to which the Decomposition of Salt or the Condensation of Muriatic Acid Gas may be effected, shall act as an Inspector or Sub-Inspector under this Act.

Duties and Powers of Inspector.

9. It shall be the Duty of every Inspector under this Act to ascertain from Time to Time that all the Alkali Works are carried on in conformity with the Provisions of this Act, and to enforce the said Provisions, and to cause Notice to be given to every Owner whose Work shall be carried on in contravention of this Act of the Commission of such Offence as soon as conveniently may be after the Commission thereof; and with a view to the Performance of that Duty he or any Sub-Inspector may at all reasonable Times, by Day and by Night, without giving previous Notice, but so as not to interrupt the Process of the Manufacture, enter upon and inspect any Alkali Work, and examine into the Efficiency of the Condensing Apparatus, and the Quantity of Muriatic Acid Gas condensed, and generally into all Matters and Works tending to show Compliance or Non-compliance with the Provisions of this Act. And the Owner of such Works, upon Demand of the Inspector, shall within a reasonable Time furnish him with a Plan, to be kept secret by such Inspector, of those Parts of such Works in which the Decomposition of Salt or other Process causing the Evolution of Muriatic Acid Gas or the Condensation thereof is carried on.

It shall be lawful for the Inspector or any Sub-Inspector under his Direction, but so as not to interfere with the Process of the Manufacture, to apply any Tests or make any Experiments he may think proper for the Purpose of ascertaining the Efficiency of the Condensing Apparatus, or the Quantity of Gas condensed; and the Owner or Agent of the Works shall be deemed to be guilty of an Offence against this Act unless he renders to the said Inspector or Sub-Inspector all necessary Facilities for their Entry, Examination, and Testing.

CLAUSE B.

Salaries of Inspectors and Sub-Inspectors.

10. Every Inspector and Sub-Inspector appointed under this Act shall be paid such Salary as may be determined by the Board of Trade, with the Consent of the Commissioners of Her Majesty's Treasury.

General Penalties on Violation of Act.

11. Every Person who wilfully obstructs any Inspector or Sub-Inspector in the Execution of this Act, and every Owner of any Alkali Work who refuses or neglects to afford to the Inspector or Sub-Inspector the Facilities necessary for making any Entry, Inspection, Examination, or Testing under this Act, or who neglects or wilfully violates any Provision of this Act, for the Neglect or Violation of which no other Penalty is by this Act imposed, shall be guilty of an Offence within the Meaning of this Act, and shall for every such Offence incur a Penalty not exceeding Ten Pounds.

Inspector to report to Parliament.

12. The Inspector shall, on or before the First Day of March in every Year, make a Report in Writing to the Board of Trade of his

Proceedings

Proceedings during the preceding Year, and a Copy of such Report shall be laid before both Houses of Parliament.

Special Rules.

Power of Owner to make Special Rules.

13. The Owner of any Alkali Work may, with the Sanction of the Board of Trade, make, alter, or repeal Special Rules for the Guidance of such of his Workmen as are employed in any Process causing the Evolution of Muriatic Acid Gas, or whose Duty it is to attend to the Apparatus used in the Condensation of that Gas, and may annex Penalties to any Violation of such Rules, so that no Penalty exceeds Two Pounds for any One Offence.

A printed Copy of the Special Rules in force in any Alkali Work shall be given by the Owner of the Work to every Person working or employed in or about that Work affected thereby.

Penalties.

Clause C. Recovery of general Penalties in England.

14. The following Regulations shall be enacted with respect to the Recovery in England of Penalties for Offences other than Offences against a Special Rule:

Every such Penalty shall be recovered by Action in the County Court having Jurisdiction in the District in which the Alkali Works are situate in respect of which the Penalty arises:

The Action shall be brought, with the Sanction of the Board of Trade, by the Inspector appointed under this Act, within Three Months after the Commission of the Offence, and for the Purposes of such Action the Penalty shall be deemed to be a Debt due to such Inspector:

The Plaintiff in any Action for a Penalty under this Act shall be presumed to be the Inspector appointed under this Act, until the contrary is proved by the Defendant:

The Court may, upon the Application of either Party, appoint a Person to take down in Writing the Evidence of the Witnesses, and may award to that Person such Compensation as the Court thinks just:

The Amount of Compensation awarded by the Judge shall be deemed to be Costs in the Cause:

If either Party in any Action for a Penalty under this Act feels aggrieved by the Decision of the Court in Point of Law, or on the Merits, or in respect of the Admission or Rejection of any Evidence, he may appeal from that Decision to any of the Superior Courts of Common Law at Westminster:

The Appeal shall be in the Form of a Special Case to be agreed upon by both Parties or their Attornies, and if they cannot agree, to be settled by the Judge of the County Court upon the Application of the Parties or their Attornies:

The Court of Appeal may draw any Inferences from the Facts stated in the Case that a Jury might draw from Facts stated by Witnesses:

Subject to the Provisions of this Section, all the Enactments, Rules, and Orders relating to Proceedings in Actions in County Courts, and to enforcing Judgments in County Courts, and Appeals from Decisions of the County Court Judges, and to the Conditions of such Appeals, and to the Power of the Superior Courts on such Appeals, shall apply to an Action for a Penalty under this Act, and to an Appeal from such Action, in the same Manner as if such Action and Appeal related to a Matter within the ordinary Jurisdiction of the Court:

Within the City of London and the Liberties thereof the Sheriffs Court, established by a Local Act passed in the Eleventh Year of the Reign of Her present Majesty, Chapter Seventy-one, intituled "An Act for the more easy Recovery of small Debts "and Demands within the City of London and the Liberties "thereof," shall be deemed to be the County Court having Jurisdiction in the Case.

CLAUSE D.
Recovery of general Penalties in Scotland.

15. In Scotland any Offence under this Act, with the Exception of Offences against a Special Rule, shall be prosecuted at the Instance of the Inspector, with the Sanction of the Board of Trade, before the Sheriff or Sheriff Substitute of the County in which the Offence has been committed, and the Sheriff or Sheriff Substitute having Cognizance of such Offence may award Costs to either Party, and may sentence the Offender to Imprisonment for any Period not exceeding Six Months, unless the Penalty and Costs be previously paid; and any Decision or Sentence of such Sheriff or Sheriff Substitute shall be subject to Review and Appeal according to Law.

CLAUSE E.
Recovery of general Penalties in Ireland.

16. In Ireland all Penalties incurred under this Act, with the Exception of Penalties against a Special Rule, may be recovered by Civil Bill at the Instance of the Inspector, with the Sanction of the Board of Trade, in the Manner and with the Appeal directed by an Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, or any Act or Acts amending the Law relating to Civil Bills.

CLAUSE F.
Application of Penalties.

17. All Penalties recovered under this Act, except in respect of Offences against a Special Rule, shall be paid into the Receipt of Her Majesty's Exchequer in such Manner as the Commissioners of the Treasury may determine.

Recovery of Penalties for Offences

18. All Penalties incurred under this Act in respect of any Offence against a Special Rule may be recovered summarily in England and Ireland

Ireland before Two or more Justices; as to England, in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act to facilitate the Performance of the "Duties of Justices of the Peace out of Sessions within England and "Wales with respect to summary Convictions and Orders," or any Act amending the same; as to Ireland, in manner directed by the Act passed in the Session holden in the Fourteenth and Fifteenth Years of the Reign of Her Majesty Queen Victoria, Chapter Ninety-three, intituled "An Act to consolidate and amend the Acts regu- "lating the Proceedings of Petty Sessions, and the Duties of Justices "of the Peace out of Quarter Sessions, in Ireland," or any Act amending the same; and in Scotland, before the Sheriff or Two Justices in manner directed by "The Railways Clauses Consolidation, Scotland, Act, 1845," with respect to Penalties imposed by that Act the Recovery of which is not otherwise provided for. against Special Rule.

CLAUSE G.

19. This Act shall continue in force to the First Day of July One thousand eight hundred and sixty-eight, and no longer. Limitation of Act.

Alkali Works Regulation.

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works.

(*Brought from the Lords* 30 *April* 1863.)

Ordered, by The House of Commons, *to be Printed*, 8 *July* 1863.

[Bill 220.]

Under 1 *oz.*

Alkali Works Regulation Bill.

LORDS REASONS

FOR

Disagreeing to One of the Amendments made by the Commons to the "ALKALI WORKS REGULATION" Bill, with Amendments to other of the said Amendments.

The Lords agree to the Amendment made by the Commons in Page 1. Line 12. with the following Amendments:—

Leave out ("and") and insert ("or")

The Lords agree to the Amendment made by the Commons in Page 2. Line 9. with the following Amendment:—

Leave out ("in any one Period of Four Hours")

The Lords disagree to Clause (A.) added by the Commons to the said Bill for the following Reasons:—

Because the Clause is opposed to the general Principle of Law by which Employers are held liable for Acts done by their Servants, and because it relieves the Owners from the Responsibility of personally superintending the Execution of Rules and Regulations which Section **11.** authorizes them to make and to enforce upon their Workmen by pecuniary Penalties:

Because no Prosecution can be instituted without the Sanction of the Board of Trade, and that Board would not direct their Officers to take Proceedings against an Owner whom they should believe to have used all the Means in his Power to secure Compliance with the Requirements of the Law.

With the preceding Exceptions the Lords agree to all the Amendments of the Commons.

[Bill 266.]

Alkali Works Regulation Bill.

LORDS REASONS

FOR

Disagreeing to One of the Amendments made by the Commons to the "ALKALI WORKS REGULATION" Bill, with Amendments to other of the said Amendments.

Ordered, by The House of Commons, *to be Printed*, 23 *July* 1863.

[Bill 266.]

Under 1 *oz.*

20 *July* 1863. 26 & 27 Vict.

A

BILL

INTITULED

An Act to enable Her Majesty in Council to make Alterations in the Circuits of the Judges.

[Note.—*The Clause printed in Red Ink is proposed to be added in Committee.*]

WHEREAS it is expedient to make Provision for such Alterations in the Circuits of Her Majesty's Judges as may from Time to Time appear to be necessary for the better Despatch of Assize Business in England and Wales: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. Her Majesty, by and with the Advice of Her most Honourable Privy Council, shall have Power from Time to Time to order and direct that the Circuits of Her Majesty's Judges in England and Wales, or any of such Circuits, shall be altered, by taking away from any Circuit any County or Counties, or any Part or Parts of any County or Counties, and annexing the same to any other Circuit or Circuits; and every such Alteration shall take effect upon and from the Date of the Order in Council in and by which the same shall be ordered and directed, or from such other Time as shall be provided in such Order. Power to Her Majesty in Council to alter Circuits.

2. All

Powers of 3 & 4 Will. 4. c. 73. s. 3. extended to this Act. [3 & 4 *Will.* 4. *c.* 71. *s.* 3. *as to summoning Juries, Venue, Gaols, &c.*]

2. All the Powers and Provisions contained in the Third Section of the Act of the Session of Parliament holden in the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, Chapter Seventy-one, shall extend, so far as the same are applicable, to all Orders in Council to be made and to all Acts to be done by virtue of this Act, and may be used and applied for any of the Purposes herein mentioned.

Power to the Treasury, with Sanction of Lord Chief Justices and Lord Chief Baron, to alter Salaries of Clerks of Assize on Alteration of Circuits. [15 & 16 *Vict.* *c.* 73. *Sched. B.: Salaries of Clerks of Assize, &c.*]

It shall be lawful for the Lords Commissioners of Her Majesty's Treasury for the Time being, and they are hereby authorized and required, by and with the Sanction of the Lord Chief Justices and the Lord Chief Baron, to make such Alterations in the Amount of the Salaries of any of the Officers mentioned in Schedule (B.) to the Act of the Session of Parliament holden in the Fifteenth and Sixteenth Years of Her Majesty's Reign, Chapter Seventy-three, as may appear to the said Lords Commissioners, by and with such Sanction as aforesaid, to be reasonable and proper upon and in consequence of any Alteration to be made in any of the Circuits by virtue of this Act; and all such new or altered Salaries shall be deemed to have been fixed and appointed under and subject to the Provisions of the said last-mentioned Act.

Power to alter Numbers of Revising Barristers. [6 & 7 *Vict.* *c.* 18. *s.* 28.: *Numbers of Revising Barristers in each Circuit.*]

3. And whereas by the Twenty-eighth Section of the Act of the Session of Parliament holden in the Sixth and Seventh Years of the Reign of Her Majesty, Chapter Eighteen, it is enacted that, except as is therein-after provided, no greater Number of Barristers shall be appointed in any Year to revise the Lists of Voters in the Election of Members to serve in Parliament for the several Counties, Cities, Boroughs, and Places within the several Circuits in England and Wales than as therein provided: Be it enacted, That upon any Alteration or Alterations being made in any of the said Circuits by Her Majesty in Council by virtue of this Act, it shall also be lawful for Her Majesty, by and with the Advice of Her Privy Council, to order and direct that the Number of Revising Barristers to be appointed for the several Counties, Cities, Boroughs, and Places within any Circuit or Circuits affected by such Alteration or Alterations as aforesaid, shall be increased or diminished as to Her Majesty, by and with such Advice as aforesaid, may seem meet, anything in the last-recited Act to the contrary notwithstanding; provided always, that the present total Number of Revising Barristers shall not be augmented.

28 *April* 1863. 26 Vict.

A

BILL

FOR

Regulating the proving and Sale of Anchors and Chain Cables.

Preamble.

WHEREAS it is essential, for the better Security of Lives and Property afloat in Sea-going Ships, to make Provision for the Use by all British Vessels engaged either in the Foreign or Coasting Trade of efficient Anchors and Cables, and to provide for the proper testing thereof to secure requisite Strength of Construction: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Board of Trade may grant Licences for proving Anchors and Chain Cables, and may suspend or revoke Licences.

1. The Board of Trade may from Time to Time grant to such Corporate or Public Bodies or Companies as they may approve Licence to erect Proving Establishments, Apparatus, and Machinery suitable for the testing of Anchors and Chain Cables by means thereof, subject to the Provisions of this Act, and the Board may suspend or revoke any Licence so granted, if the Board shall see Occasion; and the Expression "Tester" in this Act applies to every Corporation, public Body, or Company to whom such Licence shall be granted, so long as such Licence continues in force

Tester to test all Anchors and Cables in proper Order, and impress the same with authorized Proof Mark.

2. Every Tester shall, with all reasonable Despatch, subject every Anchor and Chain Cable that shall be brought to the Testing Establishment of such Tester for the Purpose of being proved, and (except in such Cases where the Parties interested may otherwise agree) in the Order in which such Anchors and Cables respectively shall be so brought, to the same tensile Strain as that to which Anchors and Chain Cables of the same Size are subjected before being received for the Use of Her Majesty's Naval Service, and shall stamp every such Anchor and Cable as shall be found equal to the Admiralty Standard with a Stamp or Die to be provided for that Purpose, denoting that such Anchor or Chain Cable has been "proved," and which shall bear the Name of the Tester, and shall be in other respects in accordance with the Board of Trade Regulations with respect to Test Stamps for the Time being in force; and every Anchor and Chain Cable shall be deemed equal to Admiralty Proof, within the Meaning of this Act, which shall upon testing be found capable of enduring such tensile Strain satisfactorily and without Fracture as will be in accordance with the Admiralty Scale, and with the authorized Regulations for the Time being in force with respect to Anchors and Chain Cables used in Her Majesty's Ships or approved by the Board of Trade.

As to Charges for testing and affixing Proof Mark.

3. Every Tester may make such Charges for the testing and stamping with Proof Mark any Anchor or Chain Cable as such Tester may think fit, not exceeding the Scale of Charges authorized by the Board of Trade, and such Tester may detain any Anchor or Cable which shall have been so tested until such Charge shall be paid; and if such Charge shall not be paid within . . Months after the testing of such Anchor or Cable, the Tester may cause such Anchor or Cable to be sold by Auction, and shall out of the Purchase Money deduct therefrom the Expenses of such Sale, and all other Expenses incurred by such Tester with respect to such Anchor or Cable, including the lawful Charges for testing the same, and shall pay the Surplus thereof (if any), on Demand, to the Owner of such Anchor or Cable, or to the Captain or Master of the Vessel, or other Person on whose Application the Anchor or Cable had been tested.

Tester, on Application, to give Certificate of Test.

4. When any Tester shall have tested and stamped any Anchor or Cable as being equal to the Admiralty Standard, such Tester shall, if requested by the Person on whose Application the same was tested, make out and deliver to such Person a Certificate, duly stamped, of such Testing; and every such Certificate shall be in the Form and contain the Particulars required by the Regulations of the Board of Trade with respect to Certificates of tested Anchors and Cables for the Time being in force.

5. If

5. If any Owner, Captain, Master, or other Person aforesaid shall feel himself aggrieved by the Conduct or Proceedings of any Tester, he may make Complaint thereof by Memorial addressed to the Board of Trade; and the Board shall thereupon make Inquiry into the Matter complained of, and take Proceedings in reference thereto, as to the Board shall seem fit.

Owners, &c. may memorialize Board of Trade with respect to Complaints against Testers.

6. The Board of Trade, for the Purposes of this Act, shall appoint an Inspector or Officer of the Board, to exercise a general Supervision and Control over all Proving Establishments for testing Anchors and Cables under this Act; and the Board may from Time to Time suspend or revoke such Appointment, and may from Time to Time prescribe the Duties of such Inspector, subject to the Provisions of this Act, and may fix the Amount of Salary and Travelling Expenses to be paid to such Inspector.

Inspector to be appointed by Board of Trade.

7. Any Inspector appointed under the Provisions of this Act shall be at liberty at all reasonable Times to inspect the Proving Establishment of any Tester, and to make Experiments to ascertain the Efficiency and Accuracy of the Testing Apparatus and Machinery thereat, and shall see that the Provisions of this Act, and the Regulations for the Time being in force of the Board of Trade with respect to the proving of Anchors and Cables, are regularly and properly observed and enforced at such Establishment, and shall from Time to Time report thereon to the Board of Trade; and if at any Time Complaint be made of Neglect of Duty or wrongful Proceedings on the Part of any Tester, he shall make Inquiry into the Matter of such Complaint, and if it shall appear to him that the Tester has been guilty of any Neglect or wrongful Proceeding, he shall report accordingly to the Board of Trade.

Inspector personally to inspect Testing Establishments, to see that the Provisions of this Act are duly observed.

8. From and after *Day of* it shall not be lawful for any Maker or Dealer in Anchors and Chain Cables to sell or supply for the Use of any Vessel to which this Act applies any Anchor or Chain Cable which shall not have been previously tested and duly stamped in accordance with the Provisions of this Act.

After it shall be unlawful for Makers and Dealers to sell unproved Anchors and Cables.

9. From and after *Day of* all Vessels to which this Act applies, in any Port of the United Kingdom, shall be deemed insufficiently equipped with Anchors and Chain Cables which have not been duly stamped with Proof Mark, as required by the Provisions of this Act; and it shall be lawful for the Customs Authorities, previous to granting necessary Port Clearance, to require the Master or Owner of every such Vessel, or other Person in charge thereof for the Time being,

After Vessels to be equipped with stamped Anchors and Cables.

being, to produce Proof Certificates, in accordance with the Provisions of this Act, of the Vessel's Equipment with Anchors and Cables.

Board of Trade may take Proceedings to enforce Provisions of Act against Masters of Vessels, &c.

10. The Board of Trade may take all necessary Proceedings against Owners and Masters of Vessels, and other Persons in charge thereof, as aforesaid, to enforce the Provisions of this Act, and may suspend or withhold the Certificate of any Master of a Vessel or other Person in charge thereof for refusing to produce any Certificate of Anchors and Cables.

Board of Trade may prescribe Rules and Regulations for certain Matters.

11. The Board of Trade may from Time to Time prescribe such Rules and Regulations as they may think fit with respect to the Stamps or Dies to be used by the Testers, and the Certificates of Anchors or Chain Cables tested, and found equal to the Admiralty Standard, and with respect to the Scale of Charges for the testing of Anchors and Chain Cables, and for the Guidance of the Testers in the Performance of their Duties under this Act, and for otherwise carrying into effect the Provisions of this Act, and may from Time to Time alter or rescind any such Rules and Regulations, and may take such Measures to give proper Publicity to such Rules and Regulations as they may think proper.

Persons committing certain Offences to be guilty of a Misdemeanor.

12. If any Person shall stamp or assist in stamping any Anchor or Chain Cable with the Stamp of any Tester, or with a Stamp or Mark purporting to be the Stamp of any Tester, without the Authority of the Tester whose Stamp shall have been so used or counterfeited, or with any other Stamp or Mark, for the Purpose or with the Intention of passing such Anchor or Cable, or of allowing or assisting in the same being passed, as an Anchor or Cable duly tested and stamped under the Powers of this Act, or if any Person, knowing any such Anchor or Cable to have been so wrongfully marked or stamped as aforesaid, shall sell the same, or shall deliver the same to any Person to be taken or used as Part of the Equipment of any Vessel, or shall take or have the same as Part of the Equipment of any Vessel, or if any Person shall write out and deliver to any Master or Owner of any Vessel, any Certificate or Document purporting to be a Certificate under this Act, that any Anchor or Cable has been tested and stamped under the Provisions of this Act, knowing that the Anchor and Cable referred to in such Certificate or Document had not been so tested or stamped, or having been tested had been found not equal to the Admiralty Standard, or if any Master or Owner of any Vessel or other Person shall in any way make use of such Certificate or Document as a good Certificate, under or for the Purposes of this Act, knowing that the same is not a bonâ fide Certificate under the Provisions of this Act, or shall produce any Certificate or Document relating

relating to any Anchor or Cable which shall not at the Time of such Production be Part of the Equipment of the Vessel, with the view and for the Purpose of inducing Belief that such Anchor or Cable does form Part of the Equipment of such Vessel, and knowing at the Time that such Anchor and Cable does not form Part of the Equipment of such Vessel, every Person so offending shall for every such Offence be guilty of a Misdemeanor.

Definition of the Word Vessel.

13. This Act shall apply to every British Ship or Vessel impelled by Sails or Steam, or partly by Sails and partly by Steam, and engaged in the Foreign or Colonial Coasting Trade, and to every Colonial Ship or Vessel impelled as aforesaid, using any Port in the United Kingdom; and the Word "Vessel" in this Act shall mean any Ship or Vessel to which this Act applies.

Anchors and Chain Cables.

A

BILL

For regulating the proving and Sale of Anchors and Chain Cables.

(*Prepared and brought in by Mr. Laird and Sir James Elphinstone.*)

Ordered, by The House of Commons, *to be Printed,*
28 *April* 1863.

[Bill 95.]

Under 1 *oz.*

Assurances Registration (Ireland) Bill.

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SCHEDULES.

A

B I L L

FOR

The Registration of Assurances in Ireland.

WHEREAS by an Act of Parliament made in Ireland in the Sixth Year of the Reign of Queen Anne, intituled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments," a public Register Office was established in the City of Dublin; and by other Acts of Parliament made in Ireland, and by certain Acts of Parliament of the United Kingdom, various Provisions have from Time to Time been made in respect of such Register Office: And whereas it is expedient to repeal the several Acts of Parliament now in force in Ireland in regard to the Registration of Deeds, and to consolidate and amend the Laws relating thereto: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 6 Anne (I.) c. 2.

1. This Act may be cited for all Purposes as the "Registration of Assurances Act, Ireland, 1863." Short Title of Act.

Act to extend to Ireland only.

2. This Act shall extend to Ireland only.

Interpretation Clause.

3. In the Construction of this Act (except where the Context or other Provisions of this Act require a different Construction) the Word "Assurance" shall extend to a Contract; the Word "Will" shall extend to a Codicil, or to an Appointment by Will or by Writing in the Nature of a Will, in exercise of a Power; the Word "Grantor" shall apply to any Person by whom Lands, Tenements, or Hereditaments shall be conveyed, appointed, charged, or otherwise affected; the Word "Registrar" shall include the Assistant Registrars or any other Officer of the Register Office directed by the Rules herein-after mentioned to perform any of the Duties by this Act devolving on the Registrar; and every Person claiming derivatively under any Assurance, Will, or other Instrument shall be considered as claiming under the same.

Repeal of former Acts, but not so as to invalidate existing Appointments,

4. From and after the *Thirty-first Day of December One thousand eight hundred and sixty-three*, the several Acts and Parts of Acts set forth in the First Schedule to this Act annexed shall be and the same are hereby from that Date repealed, except as to anything heretofore done, or any Right acquired or Liability incurred, and except so far as any of the said Acts repeal any former Act or Part of an Act, and except so far as may be necessary for the Purpose of supporting or continuing any Proceeding heretofore taken or to be taken, or the Appointment of any Registrar or other Officer appointed or to be appointed, before the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, and except as to the Recovery and Application of any Penalty or Damages for any Offence or Neglect committed before the said *Thirty-first Day of December One thousand eight hundred and sixty-three.*

or to destroy Priority of Assurances already registered. 2 & 3 W. 4. c. 87. s. 1.

5. Every Assurance registered under any of the several Acts of Parliament repealed by the preceding Section of this Act shall have the same Priority as the same would have had if this Act had not been passed.

Registration under this Act of any Instrument directed to be registered under former Registration Acts valid.

6. Registration under this Act shall have the same Effect and Force in respect of any Instrument specially directed by any Act of Parliament to be registered as if the same had been registered under the Acts hereby repealed, or any of them.

Defective Registration

7. If it shall appear that the Registration of any Assurance registered prior to the said *Thirty-first Day of December One thousand eight*

eight hundred and sixty-three is defective, by reason of the Memorial thereof not being written on Vellum or Parchment, or not being directed to the Registrar, or not being attested by two Witnesses, or not stating the Day of the Month and Year when such Assurance bears Date and was perfected, or the Names and Additions of all the Witnesses to such Assurance, or the Abodes of the Witnesses to such Memorial, or by reason of any formal Omission or Defect in the Affidavit of the Witness proving the signing and sealing of such Memorial, the Execution of the Assurance mentioned in such Memorial, and the Day and Time of the Delivery of such Memorial to the Registrar, then and in every such Case the Registration of any such Assurance, without any Amendment or further Registry, shall be as good and valid as the same would have been if there had been no such Defect in the Registration thereof.

made valid in certain Cases. 3 & 4 W. 4. c. 74. s. 8.

8. Provided always, That where the Registration of an Assurance shall, before the *passing of this Act*, have been pronounced by competent Authority wholly invalid, such Registration shall not be rendered valid by this Act; and where the Registration of any Assurance shall, before the *passing of this Act*, have been pronounced by competent Authority invalid as to some only of the Parties thereto, or as to some only of the Lands therein comprised, such Registration shall not be rendered valid by this Act, so far as the same shall have been pronounced invalid; and where any Person who would have been barred by any Assurance, if well registered, shall, before the *passing of this Act*, have had any Dealings with the Lands comprised in such Assurance on the Faith of the Registration of the same being invalid, such Registration shall not be rendered valid by this Act; and this Act shall not render valid the Registration of any Assurance as to Lands of which any Person shall, at the Time of the *passing of this Act*, be in possession, in respect of any Estate which such Assurance, if well registered, would have defeated; nor shall this Act prejudice or affect any Proceedings at Law or in Equity at the Time of the passing of this Act, in which the Validity of the Registration of any Assurance shall be in question between the Party claiming under such Assurance and the Party claiming adversely thereto, and the Registration of such Assurance, if the Result of such Proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such Proceedings shall abate or become defective in consequence of the Death of the Party claiming under or adversely to such Assurance, any Person who, but for this Act, would have a Right of Action or Suit by reason of the Invalidity of the Registration of such Assurance, shall retain such Right, so that he commence Proceedings within *Six* Calendar Months after the Death of such Party.

Certain Cases in which defective Registration shall not be made valid by this Act. 3 & 4 W. 4. c. 74. s. 12.

Commencement of Act. 2 & 3 W. 4. c. 87. s. 1.

9. From and after the said *Thirty-first Day of December One thousand eight hundred and sixty-three* this Act shall come into operation, and the Office established by the said recited Act of the Sixth Year of the Reign of Queen Anne shall be carried on under the Provisions herein-after contained; and all Books and Documents theretofore at any Time used or kept in the said Register Office shall be Public Property, and be preserved in the said Office, and not be removed therefrom.

Existing Books, &c. to be preserved. 2 & 3 W. 4. c. 87. s. 9.

Landed Estates Court to superintend Register Office.

10. The Direction, Management, and Superintendence of all Departments in the said Register Office shall devolve on the Judges of the Landed Estates Court.

Register Office to consist of certain Officers. 2 & 3 W. 4. c. 87. s. 2. & 21 & 22 Vict. c. 72. s. 9.

11. The Establishment of the said Register Office shall consist of a Registrar, Two Assistant Registrars, and so many Clerks and Officers as the Lord Lieutenant of Ireland, with the Sanction of the Commissioners of Her Majesty's Treasury, shall from Time to Time think fit.

Filling up Vacancies in the said Office. 21 & 22 Vict. c. 72. s. 12.

12. The Registrar, Assistant Registrars, and other permanent Clerks and Officers of the said Office, upon the Death, Resignation, or Removal of the Persons now respectively holding those Offices, or to be appointed from Time to Time under the Provisions of this Act, shall be appointed by the Lord Lieutenant of Ireland.

Registrar not to sit in House of Commons. 2 & 3 W. 4. c. 87. s. 36.

13. No Person holding the Office of Registrar under this Act shall be capable of being elected or of sitting as a Member of the House of Commons.

Payment of Officers on permanent Staff. 21 & 22 Vict. c. 72. s. 13.

14. There shall be paid to the several Officers who shall be appointed under the Provisions of this Act such Salaries, at such Times and in such Manner as the Commissioners of Her Majesty's Treasury shall approve, upon the Recommendation of the Judges of the Landed Estates Court, with the Approval of the Lord Lieutenant of Ireland.

Appointment of temporary Officers.

15. It shall be lawful for the Judges of the Landed Estates Court, on any temporary Pressure arising in the said Register Office, to represent the same, together with the Causes thereof, to the Commissioners of Her Majesty's Treasury, and thereupon it shall be lawful for the said Commissioners to sanction the temporary Appointment by the said Judges of One or more Supernumerary Clerks or other Officers, and the Payment to such Clerks or other Officers of such Sums

Sums of Money at such Times and in such Manner as to the said Commissioners shall seem fit.

Salaries, &c. to be paid out of Funds to be provided by Parliament. 2 & 3 W. 4. c. 87. ss. 3. and 35.

16. All Salaries and other Payments authorized by this Act shall be paid out of such Monies as shall be provided by Parliament for that Purpose.

Certain Officers to hold their Offices during good Behaviour. 21 & 22 Vict. c. 72. s. 14.

17. The Registrar and Assistant Registrars (as well those now in Office as those hereafter to be appointed) shall hold their Offices during good Behaviour, subject to be removed by the joint Order of the Judges of the Landed Estates Court, with the Sanction of the Lord Lieutenant of Ireland, for some reasonable Cause to be in the said Order expressed; and all other Officers of the said Register Office shall be removeable by the joint Order of the said Judges, with the Sanction of the Lord Lieutenant of Ireland.

Officers to act in Person. 21 & 22 Vict. c. 72. s. 16.

18. The Registrar and Assistant Registrars shall execute their respective Offices in Person, and not by Deputy, unless where a Deputy for the Execution of any such Offices shall be appointed for that Purpose by the Lord Lieutenant of Ireland in the Case of temporary Illness or other unavoidable Accident; and no Officer of the said Register Office shall, during the Term of his holding such Office, directly or indirectly practise as a Barrister or Attorney, or participate in the Fees of any other Person so practising.

Accounts to be kept of Monies received for Fees. 2 & 3 W. 4. c. 87. s. 4.

19. Accounts shall be kept of all Sums of Money received and paid in the said Office, in such Manner as the Judges of the Landed Estates Court shall from Time to Time direct; and the Balance, if any, shall be paid into the Consolidated Fund, or to such Account at such Times and in such Manner as the Commissioners of Her Majesty's Treasury shall from Time to Time appoint.

No Fees to be taken but what are specified in Sched. (2.) to be paid. 2 & 3 W. 4. c. 87. s. 5.

20. There shall be paid and payable in the said Office the several Fees only which are specified in the Second Schedule hereto, and no other Fee or Fees whatsoever: Provided always, that it shall be lawful for the Commissioners of Her Majesty's Treasury to reduce, alter, or vary the said Fees, or any of them, to the Intent that the same shall be justly apportioned, and that no greater Fees shall be charged than will amount to a Sum sufficient to discharge the Expenses of the said Register Office.

Fees not to be paid in

21. *None of the Fees specified in the Second Schedule hereto shall be received in Money, but the same shall be received by a*

Money, but by Stamps. 20 & 21 Vict. c. 79. s. 104.

Stamp denoting the Amount of the Fee which otherwise would be payable: Provided always, that the Judges of the Landed Estates Court may order any Fees which cannot, in their Opinion, conveniently be collected by Stamps to be received in Money: And provided also, that it shall be lawful for the Registrar of the said Office to require, in all Cases where he shall think it proper so to do, that an Amount sufficient to cover all Fees and Stamp Duties payable in the said Office, or a reasonable Sum on account thereof, shall be deposited in Advance.

Stamps to be impressed or affixed.

22. *The Stamps denoting the Amount of Fees payable in the said Register Office, as well as the Stamps denoting the Amount of Stamp Duty payable on the several Documents issuing from the said Office, shall be impressed or affixed, or partly impressed and partly affixed, as the Judges of the Landed Estates Court shall from Time to Time direct, with the Approval of the Commissioners of Inland Revenue.*

Provisions of Acts relating to Stamps to be applicable to Stamps for collecting Fees. 20 & 21 Vict. c. 79. s. 105.

23. *The Fees to be collected by means of Stamps under the Provisions of this Act shall be deemed "Stamp Duties," and shall be placed under the Management of the Commissioners of Inland Revenue, to be collected and paid into the Exchequer under the same Laws and Regulations as those made in respect of the other Duties of "Stamps;" and the Provisions in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall, in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under or by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively; but a separate and distinct Account of all Money received in respect of the said last-mentioned Stamps for every Year ending the Thirty-first Day of December shall be laid before both Houses of Parliament within One Month after the Termination of such Year of Accounts, or, if Parliament be not then sitting, within One Month after the Commencement of the next Session of Parliament.*

No Document to be received or

24. *No Document which under this Act ought to have a Stamp in respect of such Fee impressed thereon or affixed thereto shall be received*

received or filed, or be used or be of any Validity, for any Purpose whatever, unless or until the same shall have the proper Stamp impressed thereon or affixed thereto: Provided, that if at any Time it shall appear that any such Document has, through Mistake or Inadvertence, been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for One of the Judges of the Landed Estates Court, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto; and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto in compliance with any such Order, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Documents used unless stamped. 20 & 21 Vict. c. 79. s. 105.

25. *If any Officer of the said Register Office, or any other Person employed under this Act, shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected, or which ought to be collected, by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission, whereby any Fee or Money which ought to be collected by means of a Stamp under this Act shall be lost, or the Payment thereof evaded, every such Officer or Person so offending shall be dismissed from his Office or Employment, if the Judges of the Landed Estates Court shall think fit so to order.*

Officers may be dismissed for Fraud or wilful Neglect in relation to Stamps. 20 & 21 Vict. c. 79. s. 107.

26. Subject to such Regulations as may be made from Time to Time by the Judges of the Landed Estates Court, and to the Payment of the Fees specified in the said Second Schedule hereto, every Person, on Application at the said Register Office, shall be allowed to inspect and search such of the Indexes and other Books kept or to be kept at the said Register Office as aforesaid, and to examine and inspect such of the Documents deposited or to be deposited in the said Register Office as aforesaid, as shall by the said Regulations be kept for Public Inspection, and to take Extracts from such Indexes, Books, or Documents as aforesaid; and the Registrar shall, upon the Delivery of such Requisitions as under such Regulations may be required in this Behalf, give Negative and other Certificates of the Results of Searches; and every such Certificate shall be signed by the Registrar.

All Persons may search Books and Indexes, and take Notes thereof, upon paying daily Fee, &c. 13 & 14 Vict. c. 72. s. 52.

27. In every Case in which it shall be the Duty of any Attorney or Solicitor to make any Search in any of the Indexes kept or to be kept at the said Register Office, such Attorney or Solicitor shall be held

Duties of Attornies, &c. fulfilled by causing

Searches to be made, &c. 13 & 14 Vict. c. 72. s. 53.

held to have fulfilled his Duty in that Behalf, by making an Application at the said Register Office for such Search to be made, and obtaining a Certificate of the Result of the same, and shall not be responsible for any Error or Mistake in the Result of such Search, as stated in such Certificate; and in all other Cases every Attorney or Solicitor shall stand indemnified in relying on the Accuracy of any Certificate to be made or given in pursuance of this Act.

Assurances may be registered. 6 Anne, c. 2. s. 3.

28. Any Assurance containing the Particulars herein-after mentioned, whereby any Lands, Tenements, or Hereditaments in Ireland may be in any ways affected, may be registered in such Manner as is herein-after directed.

Assurance effectual according to Priority of Time of registering. 6 Anne, c. 2. s. 4.

29. Every Assurance which shall be registered in pursuance of this Act shall be deemed and taken as good and effectual, both in Law and Equity, according to the Priority of Time of registering such Assurance for and concerning the Lands, Tenements, and Hereditaments in such Assurance or the Certificate of Registration thereon mentioned or contained, according to the Right, Title, and Interests of the Person or Persons so assuring such Lands, Tenements, and Hereditaments, against all and every other Assurance or Disposition of the Lands, Tenements, and Hereditaments, or any Part thereof, comprised or contained in any such Assurance or Certificate thereon, as first aforesaid.

Assurance not registered void against Assurance registered. 6 Anne, c. 2. s. 5.

30. Every Assurance not registered of all or any of the Lands, Tenements, and Hereditaments comprised or contained in such an Assurance or Certificate thereon which shall be registered in pursuance of this Act shall be deemed and adjudged as fraudulent and void, not only against such Assurance registered as aforesaid, but likewise against all and every Creditor and Creditors by Judgment or Recognizance confessed, acknowledged, or entered into, whose Claims in respect of such Judgment or Recognizance shall legally bind all or any of the Lands, Tenements, and Hereditaments contained or expressed in such Assurance registered as aforesaid, or the Certificate thereon, in priority thereto.

What Assurance to be registered must state.

31. Any Assurance, to be entitled to Registration under this Act, must state the Names of the Lands affected by it, and also the Barony and County in which each Denomination of Land, or (in the case of Premises in a City or Town) the Name of the Streets, Parish, and City or Town, in which each distinct Part of the Premises comprised in such Assurance is situate, or (in the Case of an Advowson or Right of Presentation to a Benefice) the Name of the Parish, Barony, and County.

32. Regis-

How Registration to be effected.

32. Registration of an Assurance shall be effected by depositing in the Register Office a Memorial containing a concise Abstract of all the material Parts of such Assurance, or (at the Option of the Party presenting such Assurance for Registration) a Counterpart or certified Copy of such Assurance, and by Entries being made in the proper Indexes to be kept in the said Register Office under the Provisions of this Act.

Witness to prove Execution of Assurance to be registered by Affidavit before Registrar.

33. A Witness to the Execution of any Assurance to be registered shall, by Affidavit to be made before the Registrar or One of the Assistant Registrars, prove the Execution of such Assurance by each or any of the Grantors who shall have executed the same; and in case such Assurance shall not have been executed by all the Grantors therein, in the Presence of the same Witness, then the Execution thereof by each of the Grantors who shall have executed the same may be proved by the Affidavit of a Witness to the Execution of each of such Grantors respectively as shall have executed the said Assurance: Provided always, that such Assurance shall be registered in the Index of Names herein-after mentioned against such Grantors only whose Execution shall have been proved as herein-before specified.

Or by Affidavit sworn before a Justice of the Peace, &c. 25 G. 3. c. 47. s. 3.

34. A Memorial of any Assurance shall be entered by the Registrar, in case an Affidavit containing the Particulars required by the last Section, and sworn before the Justices of the Peace at the General Quarter Sessions of the County where the Lands, Tenements, or Hereditaments contained in such Assurance lie, or before a Person commissioned for taking Affidavits in the Country, pursuant to the Act of Parliament in that Case made and provided, (and for which a Sum of *One Shilling and Sixpence* shall be paid to the Person or Persons taking such Affidavits,) shall be brought with the Memorial to the said Registrar.

Attorney to certify Memorial.

35. The Attorney or Solicitor who shall have prepared any Assurance, or if such Assurance was not prepared by an Attorney or Solicitor, or if for any sufficient Cause the Attorney or Solicitor who prepared the Assurance cannot be employed, then an Attorney or Solicitor employed to register the same, shall certify in Writing on the Memorial thereof that he has compared such Memorial with the original Assurance, and that such Memorial contains a correct and sufficient Abstract of all the material Parts of such Assurance.

Registration to be effected against Ordnance Names only.

36. The Ordnance Maps of Ireland shall form the Basis of the Land Registration herein-after provided, and every Assurance brought into the said Register Office for Registration shall be registered only against

against the Townland or Townlands on the said Ordnance Maps in which the Premises comprised in such Assurance lie.

When Ordnance Names not in Assurance, Attorney or Solicitor to state them in his Certificate on the Memorial.

37. Whenever any Assurance brought into the said Register Office for Registration shall not state in what Townland or Townlands on the said Ordnance Maps the Premises comprised in such Assurance lie, before such Assurance can be admitted to Registration the Attorney or Solicitor presenting the same for Registration shall certify in Writing on the Memorial thereof in what Townland or Townlands on the said Ordnance Maps the Premises comprised in such Assurance lie; and thereupon such Assurance shall be registered against such Townland or Townlands on the said Ordnance Maps, and the Registrar shall state in his Certificate of Registration that he has registered such Assurance against such Townland or Townlands on the said Ordnance Maps, in pursuance of the Certificate of such Attorney or Solicitor that the Premises comprised in such Assurance lie in such Townland or Townlands on the said Ordnance Maps.

Attorney signing false Certificate guilty of a Misdemeanor.

38. Any Attorney or Solicitor who shall wilfully sign a false Certificate shall be and is hereby declared and adjudged to be guilty of a Misdemeanor.

Priority to extend only to Names and Lands against which Assurance registered.

39. For the Purposes of the Priority and Rights given to an Assurance registered under this Act, such Assurance shall be deemed as executed only by the Grantors against whose Names the same shall have been registered, and as comprising only the Lands against which the same shall have been registered.

Registrar shall see that Assurance is properly stamped. 56 G. 3. c. 56. s. 99.

40. Whenever any Assurance or other Instrument which shall be subject to any Stamp Duty shall be delivered for Registry to the Registrar, he shall, before the same shall be so registered, examine carefully such Assurance or Instrument, and the Stamp thereon, as directed by an Act of Parliament passed in the Fifty-sixth Year of the Reign of King George the Third, intituled "An Act to repeal the "several Stamp Duties in Ireland, and also several Acts for the "Collection and Management of the said Duties, and to grant new "Stamp Duties in lieu thereof, and to make more effectual Regula-"tions for collecting and managing the said Duties," and the several Acts amending the same, and shall be liable to the Penalties provided by the said recited Acts in case he shall offend against the Provisions contained in them or any of them.

Assurance and Memorial to be

41. Every Assurance to be registered shall be lodged, together with a Memorial thereof, and a certified Copy of such Memorial, with

with the Registrar, who shall inspect them or cause them to be inspected; and if he is satisfied that the Memorial contains a correct and sufficient Abstract of the Assurance to be registered, and that such Assurance is entitled to Registration under this Act, he shall register the same, and certify such Registration under his Hand on such Assurance; and such Certificate shall (at the Option of the Registrar) be prepared in the said Register Office, or by the Attorney or Solicitor requiring the same, and shall state the Particulars of the Registration and the Names of all Grantors against whom such Assurance has been registered, and also, if necessary, the Particulars required by the Thirty-fifth Section of this Act.

lodged together or Examination.

Registrar to register Assurance. 6 Anne, c. 2. s. 9.

And sign Certificate of Registration. 6 Anne, c. 2. s. 7.

42. Every Assurance (or other Instrument herein-after authorized to be registered) shall be deemed to be registered against any Person or any Parcel of Land as of the Time when the same shall have been handed in to the Registrar, with all Documents and Information necessary to enable him to register the same against such Person or Parcel of Land.

From what Time Registration takes effect.

43. Any Will proved as to Real Estate, in pursuance of the Provisions of "The Probates and Letters of Administration Act, Ireland, 1857," may be registered in such Manner as is herein-after directed.

Probates or Letters of Administration may be registered.

44. It shall be lawful for the Court of Probate, upon being satisfied as to the Fact, to annex to any Letters of Administration granted by such Court a Certificate to the Effect that the Deceased died intestate as to his Real Estate; and it shall be lawful for the Lord Chancellor, with such Advice and Assistance as is provided by the said "Probates and Letters of Administration Act (Ireland), 1857," to make Rules and Orders for carrying the Provisions of this Section into effect; and such Rules and Orders may from Time to Time be repealed, amended, or altered, and other Orders made in lieu thereof, in the Manner prescribed by the said recited Act.

Court of Probate may issue Certificate of Intestacy as to Real Estate.

Chancellor to make Rules. 20 & 21 Vict. c. 79. s. 35.

45. Any Certificate of Intestacy as to Real Estate, issued in pursuance of the Provisions contained in the preceding Section, may be registered in such Manner as is herein-after directed.

Certificate of Intestacy may be registered.

46. Any Assurance for valuable Consideration executed by the Devisee or Devisees taking under such registered Will, or by the Heir or Heirs of any Party, a Certificate of whose Intestacy shall have been registered as aforesaid, shall be deemed and taken as good and effectual both in Law and Equity, according to the Priority of Time of registering such Assurance, for and concerning the Lands, Tenements, and Hereditaments in such Assurance, or the Certificate

Effect of Registration of Probate or Certificate of Intestacy. 6 Anne, c. 2. s. 4.

of Registration thereon endorsed, mentioned or contained, according to the Right, Title, and Interests of the Testator or Intestate in such registered Will or Certificate, against all and every other Assurance, Will, Revocation of a Will, or Disposition executed by the said Testator or Intestate, of the Lands, Tenements, and Hereditaments, or any Part thereof, comprised or contained in any such Assurance as first aforesaid.

Assurance or Will of Testator or Intestate not registered void against registered Assurance of Devisee or Heir.

6 Anne, c. 2. s. 5.

47. Every Assurance or Will executed by such Testator or Intestate, and not registered, which shall be made and executed, of all or any of the Lands, Tenements, and Hereditaments comprised or contained in any Assurance executed by such Devisee or Devisees, Heir or Heirs, as aforesaid, and registered in pursuance of this Act, shall be deemed and adjudged as fraudulent and void, not only against such Assurance registered as aforesaid, but likewise against all and every Creditor and Creditors by Judgment or Recognizance, confessed, acknowledged, or entered into, whose Claims in respect of such Judgment or Recognizance shall legally bind all or any of the Lands, Tenements, and Hereditaments contained or expressed in such Assurance registered as aforesaid in priority thereto.

Court of Probate may recall Registration of Probate or Certificate of Intestacy:

48. Provided always, That it shall be lawful for the Court of Probate to order that the Registration of any Will or Certificate of Intestacy shall be recalled from the Registry, and upon Production of any such Order the Registrar shall file the same, and annex a Note thereof to the several Documents and Entries affected thereby.

But not so as to invalidate prior registered Assurance for Value.

49. Provided nevertheless, That no Assurance for valuable Consideration shall be in any way affected by any Order recalling the Registration of any such Will or Certificate, unless such Order shall be noted on the Registry prior to the Registration of such Assurance.

Devisee or Heir if Registration recalled after Assurance executed, to hold Purchase Money for Persons beneficially interested in Land, &c. assured.

50. Any Devisee or Devisees, Heir or Heirs, who shall fraudulently assure any Lands, Tenements, or Hereditaments under the Provisions herein-before contained, shall be deemed to hold the Purchase Money on an express Trust for the Person or Persons beneficially entitled to the said Lands, Tenements, or Hereditaments; but if such Devisee or Devisees, Heir or Heirs, shall innocently assure such Lands, Tenements, or Hereditaments, then he or they shall be liable for the Amount of such Purchase Money in an Action to be brought by the Party or Parties beneficially interested, within such Period only as said Party or Parties beneficially interested could have recovered the Lands, Tenements, or Hereditaments so assured from such Devisee or Devisees, Heir or Heirs, in case such Assurance had not been made.

51. Regis-

How Registration of a Probate or Certificate of Intestacy effected.

51. Registration of a Will or of a Certificate of Intestacy shall be effected by depositing in the Register Office an Office Copy of the Probate of such Will, or the Letters of Administration with such Will annexed, or of such Certificate, and by Entries being made in the proper Indexes to be kept in the said Register Office in pursuance of this Act.

Registrar to register Probate or Certificate of Intestacy.

52. The Registrar shall register any such Will or Certificate of Intestacy, and certify such Registration under his Hand on such Probate, Letters of Administration with such Will annexed, or Certificate.

Affidavit of Ownership may be registered.

53. Every Affidavit made and filed by any Creditor under any Judgment, Decree, Order, or Rule under an Act of Parliament passed in the Fourteenth Year of the Reign of Her present Majesty, intituled "An Act to amend the Laws concerning Judgments in Ireland," and the Act amending the same, may be registered under this Act in the Manner prescribed by the said recited Acts, and when registered under this Act shall have all the Qualities, Privileges, Advantages, and Liabilities provided by the said recited Act for Affidavits registered in pursuance thereof.

Affidavit to state Lands, &c. as on Ordnance Maps.

54. Provided always, That such Affidavit shall not be entitled to Registration unless the Names of the Townland or Townlands mentioned therein be those appearing on the Ordnance Maps of Ireland, and unless the Barony and County in which each Townland is situate, or (in the Case of Premises in a City or Town) the Parish and City or Town in which each Street is situate, shall be stated in such Affidavit.

Certificate of Vesting Order may be registered.

55. Every Certificate of any Vesting Order made in pursuance of the "Irish Bankrupt and Insolvent Act, 1857," may be registered under this Act in the manner prescribed in the said last-recited Act, and when registered under this Act shall have all the Qualities, Privileges, Advantages, and Liabilities provided by the said recited Act for Certificates registered in pursuance thereof.

Lis pendens may be registered.

56. When there shall be depending in any Court in Ireland any Suit or Matter instituted after this Act shall have come into operation, whereby any Lands, Tenements, or Hereditaments in Ireland may be in any ways affected, the Party or Parties concerned may register a Certificate of the Pendency of such Suit or Matter (which Certificate is herein-after called a Lis pendens) in such manner as is herein-after directed.

Effect of Registration of Lis pendens.

57. So soon as any Lis pendens shall be registered, all Assurances, Wills, or other Dispositions affecting the Lands, Tenements, or Hereditaments against which such Lis pendens shall be registered and made by any Person or Persons against whom such Lis pendens shall be registered, his, her, or their Heirs, Executors, Administrators, or Assigns, shall be subject and without Prejudice to the Result of such depending Suit; and all such Persons as aforesaid shall be bound by any Judgment, Decree, Rule, or Order made in such Suit, and affecting the Lands, Tenements, and Hereditaments against which such Lis pendens shall be registered as aforesaid.

No registered Assurance to be affected by any Suit unless same registered as a Lis pendens.

58. No Assurance for valuable Consideration shall be in any way affected by the Existence of any Suit or Matter (instituted after this Act shall have come into operation) depending in any Court in Ireland, unless a Certificate of the Pendency of such Suit or Matter shall be registered under this Act within *Five* Years previous to the Registration of such Assurance.

Registry of Lis pendens how effected.

59. Registration of a Lis pendens shall be effected by depositing the same in the Register Office, and by Entries being made in the proper Indexes to be kept in the said Register Office under the Provisions of this Act.

Affidavit of Persons and Premises affected by any Suit to be filed.

60. A Party interested in the Result of the Suit shall, by Affidavit to be made before the Registrar, or before a Person commissioned for taking Affidavits in the Country pursuant to the Act of Parliament in that Case made and provided, specify by the Name or Names thereof on the Ordnance Maps of Ireland the Townland or Townlands affected by such Suit, together with the Barony and County in which each Townland is situate, or (in the Case of Premises in a City or Town) the Name of the Street, Parish, and City or Town in which each distinct Part of the Premises mentioned in such Affidavit is situate, and also the Name of each Party to such Suit whose Interest in such Lands may be affected thereby.

Registrar to register Lis pendens.

61. The Registrar shall register any Lis pendens, and in lieu of a Certificate of Registration any Party may take out an Office Copy of such Lis pendens and Affidavit.

Certificate of Registration, &c. to be Evidence of Registry.
6 Anne, c. 2. s. 7.

62. The Certificate of Registration endorsed on any Assurance, on the Probate of any Will, on the Letters of Administration with any Will annexed, or on any Certificate of Intestacy or other Instrument, or the Office Copy of any Affidavit of Ownership, Certificate of a Vesting Order, or Lis pendens, signed by the Registrar, shall be conclusive Evidence that such Assurance, Will, Certificate of Intestacy,

testacy, or other Instrument, Affidavit of Ownership, Certificate of a Vesting Order, or Lis pendens, has been duly registered against the Persons and Premises named therein, or in the Certificate thereon; and that all Formalities required by this Act, and also by the said recited Acts of the Fourteenth Year of the Reign of Her present Majesty, and the Act amending the same, for a valid Registration, have been fully complied with.

Registrar to refuse incorrect Memorial, &c.

63. If any Memorial does not contain a correct and sufficient Abstract of all the material Parts of the Assurance whereof it is a Memorial, or if such Memorial and Assurance do not conform to the Regulations herein-before contained, or if any Affidavit of Ownership, or any Affidavit accompanying a Lis pendens, do not conform to the said Regulations, or if any Affidavit of Ownership does not conform to the Regulations in the said recited Act of the Fourteenth Year of the Reign of Her present Majesty, and the Act amending the same, contained, with reference to the Particulars to be stated in such Affidavit, or if for any Reason the Registrar thinks that any Instrument brought in for Registration should not be received, it shall be his Duty to refuse to admit such Instrument to Registration, giving, if required, a Certificate under his Hand stating the Reason of such Refusal.

But if required shall provisionally register same.

64. Provided always, That in every Case in which the Registrar shall refuse to admit any Instrument to Registration, he shall, if so required by the Party presenting such Instrument, provisionally register the same on Payment of the ordinary Fees for Registration, and such provisional Registration shall remain in force and have all the Effect of Registration for the Period of *Three Calendar Months* from the Date thereof and no more, unless within the said Period of *Three Months* an Order of One of the Judges of the Landed Estates Court in Ireland shall be produced to the Registrar, declaring such Instrument entitled to Registration as of the Date of such provisional Registry, in which Case the Registrar shall insert a Note of such Order on the several Entries and Documents affected thereby, and such provisional Registration shall from thenceforth become as valid and effectual as if the said Instrument had been fully registered in the first instance.

Provisional Registration to be cancelled if not established within Three Months.

65. In case no such Order shall be produced to the Registrar within the Period aforesaid, such provisional Registration shall be cancelled and cease to have any Effect whatever, and after such provisional Registration shall have been cancelled no Person shall be affected with Notice of the Instrument, the provisional Registration whereof is so cancelled, by reason of such provisional Registration.

Fee for provisional Registry not to be returned.

66. No Fees paid for the provisional Registration of any Instrument shall in any Case be refunded.

Priority to be enforced in Equity notwithstanding Notice. 13 & 14 Vict. c. 72. s. 29.

67. The Priority or Rights given by the Provisions herein-before contained to any Person claiming for valuable Consideration under a subsequent Assurance, Will, or other Instrument, shall not be taken away by any Court of Equity in consequence of such Person having been affected with Notice, unless he shall have been guilty of actual Fraud; and where, under the Provisions herein-before contained, Priority or Rights shall be given to any Person claiming for valuable Consideration under a subsequent Assurance an equitable Estate or Interest, such Priority or Rights shall be enforced in Equity, although the Person claiming under such subsequent Assurance shall have been affected with Notice.

Indexes, &c. to be provided.

68. There shall be provided in the said Register Office, previous to the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, a Series of Books to be called the "Index of Names," a Second Series of Books to be called the "Index of Lands," and also a Book to be called "The Abstract Book"; and all such Books shall be kept in Duplicate at the least.

Indexes, &c. to be kept as directed by General Rules.

69. The "Index of Names" and "Index of Lands" shall be kept in such Manner as shall be directed by the Rules to be made as herein-after provided.

Abstracts of Memorials, &c. to be entered in Abstract Book.

70 An Abstract of every Memorial, Will, Certificate of Intestacy, Affidavit of Ownership, Certificate of a Vesting Order, and Lis pendens, shall be entered in the "Abstract Book" in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

Note of Memorial, &c. to be entered in Indexes of Lands and Names.

71. A Note of every Memorial, Affidavit of Ownership, and Lis pendens, shall be entered in the "Index of Names" and "Index of Lands" under the different Heads, in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

Note of Certificate of Vesting Order to be entered in Index of Names.

72. A Note of every Will, Certificate of Intacy, and Certificate of a Vesting Order, shall be entered in the Index of Names," or such other Book in lieu thereof, in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

73. The

Judges of Landed Estates Court to make Rules. 21 & 22 Vict. c. 72. s. 30.

73. The Judges of the Landed Estates Court, on or before the *First Day of December next*, shall, after Conference with the Registrar, prepare such a Code of General Rules as they may think best adapted for giving effect to the Provisions and Objects of this Act, and for the Regulation and Management of the said Register Office, in respect of all Matters not herein-before particularly provided for, and shall thereby especially direct the Mode of keeping the several Indexes and Abstract Book herein-before mentioned, and may direct, if they shall think fit, that any other Book or Books shall be kept in such Office in addition to those herein-before mentioned, or they may dispense with the keeping of any of the said Books, as Occasion may require, and may thereby also direct that any Assurance or other Instrument executed by any public Officer or Officers in the Discharge of his or their official Duties shall not be registered as against such Officer or Officers in the "Index of Names:" Provided always, that every such Code of General Rules shall be laid before the Lord Chancellor of Ireland; and the Lord Chancellor thereupon, with the Assistance of the Lord Justice of Appeal, shall consider the Expediency of such Rules and every of them; and it shall be lawful for the Lord Chancellor, with the Concurrence of the Lord Justice of Appeal, by Order signed by him, to confirm or disallow all or any of such Rules, or to alter or amend, and confirm with such Alterations or Amendment, any of such Rules, or to remit any of such Rules to the said Judges for further Consideration, or to frame any additional Rule or Rules; and every such General Rule or Rules (when the same shall have been so confirmed by Order of the Lord Chancellor) shall be enrolled in the High Court of Chancery in Ireland, and when so enrolled shall be of the same Force and Effect as if the same had been enacted by Authority of Parliament: Provided also, that any Rules so confirmed and enrolled as aforesaid may from Time to Time be added to, rescinded, amended, or altered, as Occasion may require, by other Rules made by the Judges for the Time being, after Conference with the Registrar as aforesaid, and confirmed and enrolled in like Manner: And provided also, that it shall be lawful for any Two of the Judges of the said Court to lay any Rule or Rules before the Lord Chancellor which such Judges may think expedient, whereupon the Lord Chancellor may proceed with respect to such Rule or Rules as if the same had been prepared and laid before him by all the Judges of the said Court.

General Rules to be laid before Parliament. 21 & 22 Vict. c. 72. s. 32.

74. Such Code of General Rules as shall be made and confirmed as aforesaid shall be laid before both Houses of Parliament within *One Calendar Month* from the Enrolment thereof, if Parliament be then sitting, or, if Parliament be not then sitting, within *One Calendar Month* from the Commencement of the next Session of Parliament.

Judges to frame Forms, &c. 21 & 22 Vict. c. 72. s. 29.

75. The said Judges, after Conference with the Registrar as aforesaid, shall frame and cause to be printed and circulated or promulgated, as they shall see Occasion, Forms of Memorials, of Requisitions for Searches, of Certificates of Searches, and of Certificates of Registration of Assurances, and also such other Forms and Directions as they may deem requisite or expedient for facilitating Proceedings under this Act.

A Judge of the Landed Estates Court may order Registry of any Instrument rejected by Registrar.

76. Any Judge of the Landed Estates Court may, on reading the Certificate of the Registrar, giving his Reason for refusing to admit any Instrument to Registration, order the Registration of such Instrument, if he shall think fit, (whether the same shall conform to the Requirements of this Act or not), on such Terms as the said Judge shall deem just and consistent with the Spirit of the Provisions herein-before contained.

Or may order Registration of any Instrument on Production of a Copy or Extract. 13 & 14 Vict. c. 72. s. 47.

77. Any Judge of the Landed Estates Court may, upon reasonable Evidence being laid before him of the Loss or Destruction of any original Instrument, or (if there be Duplicates) of the several original Instruments, and on Production of a Copy or Extract from such Original, or any of the Duplicates, direct that such Instrument may be registered in such Manner and on such Terms as to the said Judge shall seem just and consistent with the Spirit of the Provisions contained in this Act.

Party interested may require any Instrument to be registered. 13 & 14 Vict. c. 72. s. 19.

78. Any Person having an Interest in any Lands under any Assurance or other Instrument by this Act authorized to be registered, which has not been registered, may require any Person in possession of the original Document, or (if there be Duplicates) any One of the original Documents, or (where the original Document or the several original Documents is or are lost) a Copy of or (in case where no Copy is known to exist) an Extract from the original Document, or of or from any of the original Documents, to deliver or send the same at or to the said Register Office, for the Purpose of its being registered; and in case the Person in whose Possession the same shall be refuse to do so, it shall be lawful for any Judge of any of the Superior Courts of Law at Westminster, or of the Court of Session in Scotland, or for any Judge of the Landed Estates Court in Ireland, upon a summary Application, to make such Order respecting the Delivery or sending of such Document, or Copy or Extract as aforesaid, at or to the said Register Office for the Purpose aforesaid, as to such Judge, in the Exercise of his Discretion, shall, under the Circumstances of the Case, appear proper: Provided always, that this Enactment shall not authorize any Person to require or enforce the Registration of any Assurance, or Copy or Extract, in

in case any Agreement or Provision has been made for the Non-registration of such Assurance by him or by any Person from or through whom he derives an Interest under such Assurance.

Registrar to confer with Judge in Cases of Doubt.

79. The Registrar or either of the Assistant Registrars shall, in any Case of Difficulty or Doubt arising in the Execution of their several Duties, apply to a Judge of the Landed Estates Court, and take his Directions in relation thereto, and no Registrar or Assistant Registrar shall be answerable for any Act bonâ fide done in pursuance of such Directions.

Mode of hearing Complaints against Officers, &c. 2 & 3 W. 4. c. 87. s. 28.

80. Upon any Complaint made on Oath before any of the Judges of the Landed Estates Court, of any Neglect, Default, or Misconduct of the Registrar, or any Assistant Registrar, or Clerk employed in the said Register Office, it shall be lawful for any of such Judges, and they are hereby severally required, in open Court, to hear and determine such Complaint in a summary Manner; and such Judge, if he shall think proper, may examine upon Oath the Party complaining, and the Party complained against, and dismiss the Complaint with reasonable Costs, if the Complaint shall appear frivolous or vexatious, or award Compensation to the Complainant, or impose a pecuniary Penalty or Fine upon the Party complained against, to any Amount not exceeding the Sum of *One hundred Pounds*, or adjudge the Party complained of to be removed from his Place in the said Office, or order that out of any Salary that may be due or that shall accrue to the Person against whom such Judgment shall have been given such Penalty, Fine, or Compensation aforesaid shall be paid and discharged; and where such Penalty or Fine shall be imposed, the Amount of such Penalty shall be paid into the said Register Office, and shall be applied as if the same had accrued from Fees paid in the said Office.

Printing may be introduced.

81. And whereas it may be possible shortly to make use of Printing and other scientific Improvements in lieu of Scrivenery for the various Purposes of the said Register Office: Be it therefore enacted by the Authority aforesaid, That the Judges of the Landed Estates Court may, at any Time that they think it expedient so to do, with the Assent of the Commissioners of Her Majesty's Treasury, direct that Printing or any other scientific Improvement shall be introduced and made use of in the said Register Office.

On Introduction of Printing Judges may modify Rules, &c.

82. So soon as Printing or other scientific Improvement shall be introduced into the said Register Office in lieu of Scrivenery, it shall be lawful for the said Judges (notwithstanding anything herein contained to the contrary), by General Rules to be made as herein-before

before provided, to substitute for a Memorial of any Assurance or other Instrument a full Copy or Counterpart thereof, and to direct in what Manner such Copy or Counterpart shall be made, and how authenticated for Registration, and generally to make such further and other Rules for the Management and Regulation of the said Register Office, and the Mode of conducting the Business thereof, as the Introduction of Printing or other scientific Improvements shall render necessary or useful.

Commissioners of Treasury may defray Expense of completing Indexes, &c. 2 & 3 W. 4. c. 87. s. 34.

83. It shall be lawful for the Commissioners of Her Majesty's Treasury, from Time to Time, out of such Monies as may be provided by Parliament for that Purpose, to defray the Expenses of compiling, transcribing on Parchment, and completing any Abstracts, Transcripts, or Indexes at present remaining incomplete in the said Office, and of printing the same, or any Part or Parts thereof, and also of preparing the new Books by this Act directed to be prepared, and also of introducing Printing or other scientific Improvements into the said Register Office.

Act not to extend to short Leases, &c. 6 Anne, c. 2. s. 14. and 13 & 14 Vict. c. 72. s. 61.

84. This Act shall not extend to any Lease or Leases for Years not exceeding *Twenty-one* Years, where the actual Possession goes along with the said Lease, and the Rent reserved thereby is not less than *Three Fourths* of the actual letting Value of the Land comprised therein, and provided the said Lease shall not contain any Covenant for Renewal, or to such Transfers and other Assurances of or relating to the Shares in any public or private Works or Undertaking of any Corporation, Company, or Society, as by virtue of any Local or other Act of Parliament are or shall be required to be registered or otherwise entered or minuted in the Books of the Corporation, Company, or Society.

Registration under this Act to operate as Enrolment.

85. Registration under this Act shall have the same Effect as Enrolment on any Assurance required by any Act of Parliament to be enrolled; and where, by any Act of Parliament, any Assurance is directed to be enrolled, it shall be a sufficient Compliance with the Direction of such Act to register such Assurance under this Act; provided that such Assurance shall be registered under this Act within the Period limited by any such Act for the Enrolment of any such Assurance.

Office Copy of Memorial, &c. to be Evidence. 2 & 3 W. 4. c. 87. s. 32.

86. In all Proceedings before any Court of Justice a Copy of any Memorial, Affidavit, or other Document lodged in the said Office, purporting to be signed by the Registrar or either of the Assistant Registrars, shall be received and taken as Evidence of the Contents of the Memorial, Affidavit, or other Document of which it purports to

to be a Copy, without the Production of the original Memorial, Affidavit, or other Document.

87. If any Person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting, the Name, Signature, or Handwriting of any Officer of the said Register Office in any Case in which the Signature of such Officer is or shall be required or authorized to be made, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting, the Name, Signature, or Handwriting of any Person whomsoever to any Document which is or shall be required or directed to be signed by such Person, or shall, with an Intention to defraud any Person whomsoever, use any Document the Signature of which shall be so forged or counterfeited as aforesaid, knowing the same to be forged or counterfeited, or shall sign his own Name, or cause or procure the Signature of the Name of any other Person, to any Certificate or other Writing requiring to be signed by an Officer of the said Register Office, or shall use any such Certificate or other Writing, with the Intent to defraud thereby any Person whomsoever, any such Person so offending, being thereof lawfully convicted, shall be and is hereby declared and adjudged guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding *Four* Years nor less than *One* Year.

Punishment for forging Signature required by this Act, &c.
13 & 14 Vict. c. 72. s. 62.

FIRST SCHEDULE to which the foregoing Act refers.

6 Anne, (I.) c. 2. 1. An Act of Parliament made in Ireland in the Sixth Year of the Reign of Queen Anne, intituled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments."

8 Anne, (I.) c. 10. 2. An Act of Parliament made in Ireland in the Eighth Year of the Reign of Queen Anne, intituled "An Act for amending an Act, intituled 'An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments.'"

8 G. 1. (I.) c. 15. 3. An Act of Parliament made in Ireland in the Eighth Year of the Reign of King George the First, intituled "An Act for explaining and amending Two several Acts in relation to the public registering of all Deeds, Conveyances, and Wills."

5 G. 2. (I.) c. 4. 4. The Tenth Section of an Act of Parliament made in Ireland in the Fifth Year of the Reign of King George the Second, intituled "An Act for the further explaining and amending the several Laws for preventing Frauds committed by Tenants; and for the more easy Renewal of Leases; and for the further Amendment of the Law in certain Cases therein mentioned."

33 G. 2. (I.) c. 14. 5. The Second Section of an Act of Parliament made in Ireland in the Thirty-third Year of the Reign of King George the Second, intituled "An Act for repealing an Act passed in this Kingdom in the Eighth Year of the Reign of King George the First, intituled 'An Act for the better securing the Payment of Bankers' Notes,' and for providing a more effectual Remedy for the Security and Payment of Debts due by Bankers."

21 & 22 G. 3. (I.) c. 46. 6. An Act of Parliament made in Ireland in the Session held in the Twenty-first and Twenty-second Years of the Reign of King George the Third, intituled "An Act to promote Trade and Manufacture by regulating and encouraging Partnerships."

25 G. 3. (I.) c. 47. 7. An Act of Parliament made in Ireland in the Twenty-fifth Year of the Reign of King George the Third, intituled "An Act for amending the several Laws relating to the registering of Wills and Deeds in the Registry Office of this Kingdom, and for the better regulating and conducting the Business of the said Office."

56 G. 3. c. 88. 8. The Twelfth and Thirteenth Sections of an Act of Parliament made in the Fifty-sixth Year of the Reign of King George the Third, intituled "An Act to amend the Law of Ireland respecting the Recovery of Tenements from absconding, overholding, and defaulting Tenants, and for the Protection of the Tenant from undue Distress."

3 G. 4. c. 116. 9. An Act of Parliament made in the Third Year of the Reign of King George the Fourth, intituled "An Act for the more convenient and effectual registering in Ireland Deeds executed in Great Britain."

9 G. 4. c. 57. 10. An Act of Parliament made in the Ninth Year of the Reign of King George the Fourth, intituled "An Act to provide for the Regulation of the Public Office for registering Memorials of Deeds, Conveyances, and Wills in Ireland."

11. The

11. The Sixty-second Section of an Act of Parliament made in the Tenth Year of the Reign of King George the Fourth, intituled "An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases of the Land Revenue of the Crown within the Survey of the Exchequer in England, and of the Land Revenue of the Crown in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney." — 10 G. 4. c. 50.

12. An Act of Parliament made in the Second and Third Years of the Reign of King William the Fourth, intituled "An Act to regulate the Office for registering Deeds, Conveyances, and Wills in Ireland." — 2 & 3 W. 4. c. 87.

13. The first Nine Sections of an Act of Parliament made in the Eleventh and Twelfth Years of the Reign of Queen Victoria, intituled "An Act to facilitate the Transfer of Landed Property in Ireland," as far as they relate to the Office for the Registration of Deeds, Conveyances, and Wills in Ireland. — 11 & 12 Vict. c. 120.

SECOND SCHEDULE to which the foregoing Act refers.

	£	s.	d.
Upon every Memorial, Probate, Letters of Administration with the Will annexed, Certificate of Intestacy, Certificate of Bankruptcy or Insolvency, Affidavit of Ownership, or Lis pendens received into the Office at the Time of the Delivery thereof to be registered,—			
Where such Instrument shall contain not more than Seven Folios, each of Seventy-two Words	0	8	0
Above Seven, for every additional Folio or Part of a Folio (this Fee not to be charged where the Instrument is a Probate or Letters of Administration with the Will annexed	0	0	6
And for the Name of every Grantor beyond the first Grantor	0	0	3
For every separate Denomination of Land which shall have to be separately entered in the Index beyond the first	0	0	3
For every Second Certificate of Registry, or Special Certificate of Registry, if the same shall not exceed a Folio of Seventy-two Words	0	0	6
And every additional Folio thereof, or Part of a Folio	0	0	6
From every Person making Searches in the Office, including the Liberty of taking Notes or Abstracts each Day	0	5	0
For every original Memorial or Affidavit produced for Inspection in the Office	0	0	6
For common Searches made by the Office under a Requisition upon Names, for any Period not exceeding Ten Years, for each different Surname	0	2	6
For every additional Ten Years or fractional Part of Ten Years	0	2	6
And upon Lands, the like Fees for each Denomination or alias Denomination of Land.			
When both Names and Lands are stated in a Requisition, the Party desiring the Search may direct it to be confined to either Lands or Names.			

For

	£	s.	d.
For every Copy of an Abstract of a Memorial, whether contained in a Certificate of Search or otherwise	0	1	0
Making Certified or Negative Search upon a Requisition upon Names, for any Period not exceeding Ten Years, for each different Surname required	0	5	0
For every additional Year beyond Ten Years	0	0	6
And upon Lands, the like Fees for each Denomination or alias Denomination of Lands.			
For each Copy of any Memorial or Certificate, not exceeding Three Folios	0	1	6
And for every additional Folio or Part of a Folio beyond Three Folios	0	0	6
Attending to produce any Memorial or Memorials in Dublin each Day for each Cause	0	6	8
The like out of Dublin	0	13	4
And for every Day beyond a Second Day, each	0	13	4
And for the Expenses of travelling to and from any Place at which such Attendance shall be required, for every Mile	0	0	8

Assurances Registration (Ireland).

A

B I L L

For the Registration of Assurances in Ireland.

(*Prepared and brought in by Sir Robert Peel, Sir George Grey, and Mr. Solicitor General.*)

Ordered, by The House of Commons, *to be Printed, 2 March* 1863.

[Bill 46.] *Under 4 oz.*

19 *May* 1863. 26 Vict.

A

B I L L

INTITULED

An Act for the Augmentation of certain Benefices, the Right of Presentation to which is vested in the Lord Chancellor.

[Note.—*The Clause printed in Red Ink is proposed to be added in Committee.*]

WHEREAS the Lord Chancellor for the Time being is lawfully entitled to nominate and present Clerks to the Benefices included in the First Schedule hereto; and it is expedient to sell the Advowsons thereof, in order that the Purchase Money or Consideration received for each Advowson may be applied in the Augmentation of the Income of the Benefice: And whereas the Lord Chancellor is lawfully entitled to present to divers other Benefices, and it is expedient that some of such Benefices should be sold, and the Proceeds applied in the Augmentation of poor Benefices remaining in his Gift: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Power to sell.

1. It shall be lawful for the Lord Chancellor to sell and convey the Advowsons of the several Livings included in the First Schedule to this Act in the Manner, for the Considerations, and subject to the Regulations herein-after contained. Lord Chancellor may sell Advowsons in First Schedule.

Mode of Application to purchase.

Parties desirous of purchasing to make an Offer to Lord Chancellor, stating Terms.

2. Any Person desirous of purchasing any of the said Advowsons may make to the Lord Chancellor an Offer in Writing, which shall be signed by the Applicant, or, in the Case of a Corporation aggregate, be sealed with the Corporate Seal, and shall state the Terms and Conditions on which the Applicant is willing and submits to purchase the Advowson therein mentioned.

More Offers than One may be received.

3. The Lord Chancellor shall be at liberty to receive Two or more Offers for the same Advowson, but he shall not be under any legal Obligation to accept the Petition which contains the highest Offer.

Lord Chancellor may require from Incumbents a Return of Income and Outgoings.

4. It shall be lawful for the Lord Chancellor from Time to Time to require from the Incumbents of the Advowsons mentioned in the Schedule to this Act, and every such Incumbent receiving such Requisition is hereby required to make to the Lord Chancellor, a Return or Statement in Writing according to the best of his Knowledge, Information, or Belief, and in such Form as shall be prescribed by the Lord Chancellor, of the gross Income or yearly Benefit of his Benefice, any Tithe Rentcharge therein being returned at par, and also a similar Return of all Rates, Taxes, Tenths, Dues, and other Outgoings, including the Charges of Collection, but not including Income or Property Tax, which shall have been paid by or chargeable on such Incumbent in respect of his Benefice during the Five Years immediately preceding Lady Day One thousand eight hundred and sixty-three, distinguishing the various Items in respect of which such Outgoings may have arisen.

If the Incumbent has a Curate the Stipend of the Curate must be stated, and the Reasons for his Appointment.

Where there is no Parsonage or Residence for the Incumbent belonging to the Living a Sum of Twenty-five Pounds per Annum shall be deducted from the net yearly Value as returned by the Incumbent.

If at the Time of making any such Return as is hereby required to be made by Incumbents a Living shall be subject to a Charge of annual Payments in respect of Monies borrowed for building or rebuilding the Parsonage or other Buildings, or for Drainage or other Improvements of the Glebe or Lands of the Living, no Deduction shall be made from the net yearly Value in respect of such annual Payments, but a separate Statement shall be made by the Incumbent of the Number and Amount of the annual Payments remaining to be made.

Mode

Mode of Payment of Purchase Money.

5. When the Purchase Money for any Advowson to be sold under this Act has been agreed upon, the Purchaser may, with Consent of the Lord Chancellor, pay or satisfy the same in any One of the following Modes; (that is to say,)

Purchasers may pay the Money into the Bank, or in other Modes, with Consent of Lord Chancellor.

First. He may pay the whole of the Purchase Money into the Bank of England to the Credit of the Ecclesiastical Commissioners for England to an Account entitled the Lord Chancellor's Augmentation Fund:

Secondly. He may pay One Half of the Purchase Money into the Bank of England to the Credit and Account aforesaid, and may give Security, to the Satisfaction of the Lord Chancellor, for Payment in manner aforesaid, when and so soon as the Living shall be vacant, of such Sum of Money as shall be equal to the Sum which the other Half of the Purchase Money would produce if it were duly accumulated, with Compound Interest at Four per Centum between the Time appointed for the Completion of the Purchase and the next Avoidance of the Living:

Thirdly. The Purchaser may grant and secure to the Satisfaction of the Lord Chancellor such a present Annuity or Rentcharge in perpetuity as shall be equal to Five per Centum per Annum upon One Half of the said Purchase Money of the said Advowson; and the Purchaser may also grant and secure as aforesaid such further Annuity or Rentcharge to arise and be payable in perpetuity upon the next Avoidance of the Living, as shall be equal to Five per Centum upon such Sum as would have been produced if the remaining Moiety of the Purchase Money had been accumulated at Compound Interest at Four per Centum between the Time when such Purchase Money became payable and the Time of the Avoidance of the Living:

Fourthly. The Purchaser may grant and secure as aforesaid such Annuity or Rentcharge as aforesaid at Five per Centum in satisfaction and discharge of the First Moiety of the Purchase Money, and may secure the other Moiety of the Purchase Money, with accumulated Interest and Compound Interest thereon at the Rate of Four per Centum per Annum in manner aforesaid, to be paid on the next Avoidance of the Living, in the Manner herein-before directed:

Fifthly. It shall be lawful for the Lord Chancellor at his Discretion to accept in satisfaction of the whole or any Part of the Purchase Money for an Advowson any Freehold Land which may be conveniently and beneficially held by the Incumbent;

the Value of such Land, and the Title thereto, shall be ascertained in such Manner as the Lord Chancellor shall direct, and all the Expenses attending the same, and the Conveyance of the Land, shall be defrayed by the Purchaser of the Advowson.

Application of Purchase Money.

Purchase Money may be applied under Direction of Lord Chancellor.

6. When any Sum of Purchase Money shall have been paid into the Bank of England in pursuance of this Act, the same may be applied under the Direction of the Lord Chancellor in manner following:

Any Sum not exceeding One Half of the Purchase Money for the Advowson, may be paid by Order of the Lord Chancellor to the Ecclesiastical Commissioners for England, who, if required by the Lord Chancellor, shall in respect thereof grant an Annuity, and charge the same upon their Common Fund at the Rate of Three Pounds Ten Shillings per Centum per Annum on the Sum so paid, which Annuity shall be forthwith applied in augmentation of the Income of the Living:

And as to the Residue of such Purchase Money, the same may by Order of the Lord Chancellor be paid over to the Ecclesiastical Commissioners for England, upon the Terms that such Commissioners shall on the next Avoidance of the Living grant in Augmentation thereof, and secure upon their Common Fund, such an Annuity as would be equal to Three and a Half per Centum upon such Sum of Money as the Residue of the Purchase Money so paid over as aforesaid would have amounted to or produced if the same had been accumulated with Compound Interest at Three and a Half per Centum between the Day of such Payment and the Day of the Avoidance of the said Living.

Annuities or Rentcharges may be purchased.

7. It shall be lawful for the Lord Chancellor to direct that any Part of the Purchase Money so paid into the Bank as aforesaid may at any Time, as Occasion shall offer, be applied in the Purchase of any Freehold Land which may be conveniently and beneficially held by the Incumbent, or of any Tithe Rentcharge or of an Annuity or Rentcharge at the Rate of Four per Centum, to be issuing out of or secured on Freehold or Copyhold Tenements or Hereditaments in England, or in the Purchase of a Deferred Annuity or Rentcharge issuing or secured as aforesaid, to arise and become payable on the next Avoidance of the Living, provided that such Deferred Annuity be not less than Four per Centum on the Sum which the Purchase Money would have amounted to if accumulated at Compound Interest at Four per Centum between the Time of such Purchase and the next Avoidance of the Living.

8. Provided

8. Provided always, That it shall be lawful for the Lord Chancellor to direct that Part of the Purchase Money of any Advowson, but not exceeding in any Case Five hundred Pounds, may be applied or paid for the Purpose of purchasing, building, or rebuilding a Parsonage House on the said Living, provided an equal Sum be found and paid for the same Purpose by or on behalf of the Incumbent or Owner of the Advowson. Parsonage Houses may be built out of Purchase Money.

9. Any Sum not exceeding One Moiety of the Purchase Money or Consideration given for the Purchase of an Advowson shall be applied in the immediate Augmentation of the Living, and if the other Moiety of the Purchase Money or Consideration does not fall under some of the Provisions herein-before contained the same shall be accumulated at Compound Interest in such Manner as the Lord Chancellor shall direct. What Proportion may be applied to Augmentation of Living.

10. If on the Purchase of any of the said Advowsons it shall be agreed that the Purchaser shall grant an Annuity or give Security for Part of the Purchase Money, or if the Lord Chancellor shall contract for the Purchase of any Annuity, the Title of the Purchaser to the Property proposed as Security, and the Sufficiency in Value of such Property, may be referred by Order of the Lord Chancellor to the Registrar of the Title to Landed Estates, who shall cause such Title to be investigated, and inquire into the Sufficiency of the proposed Security, and report thereon to the Lord Chancellor. Inquiry as to Title and the Sufficiency of Value of proposed Security.

Mode of Conveyance.

11. When the Consideration for an Advowson has been duly paid or secured, the Advowson shall be conveyed by the Lord Chancellor unto the Purchaser, or as he shall direct, by an Instrument which may be in the Form contained in the Second Schedule to this Act, with such Alterations therein, if necessary, as the Circumstances of the Case may require. Form of Instrument of Conveyance.

No Stamp or other Duty shall be payable in respect of such Grant, or of any Grant, Mortgage, or other Instrument or Proceeding under this Act. Exemption from Stamp Duty.

12. Any Annuity to be granted under this Act may be in the Form contained in the Second Schedule to this Act, or as near thereto as Circumstances will admit. Form of Annuity.

13. Any Mortgage to be granted in pursuance of the Provisions of this Act may be in the Form in the Second Schedule contained, or as near thereto as Circumstances will admit. Form of Mortgage.

 14. Every

Incidents of Annuity.

14. Every Annuity granted under this Act may be secured on Freehold or Copyhold Estates, or by the Investment of such Sum as the Lord Chancellor may think sufficient in Government Securities, or by the Assignment of an existing Annuity charged on Freehold or Copyhold Estates.

Annuity to be payable half-yearly.

15. Every Annuity granted under this Act shall be paid half-yearly on such Days as may be named in the Order of the Lord Chancellor relating thereto; such Annuity shall have Priority over all Charges that may after the Grant of the said Annuity be created in pursuance of any Act of Parliament relating to the Drainage of Land, or to any Buildings or Improvements on Land.

Apportionment of Annuity between Incumbents on Vacancy.

16. On any Vacancy in any Benefice, the Incumbent of which is entitled to an Annuity under this Act, an Apportionment shall be made between the in-coming Incumbent and the out-going Incumbent or his Representatives of the then growing Half Year's Annuity, and for the Purposes of such Apportionment the said Annuity shall be deemed to accrue due from Day to Day.

Recovery of Annuity.

17. Any Annuity granted under this Act, if charged upon Real or Copyhold Estates, shall be recoverable in the same Manner in which Tithe Rentcharges are recoverable, or by Petition in Chancery, with Power for the Court to appoint a Receiver.

When Advowson purchased, the Title to be indefeasible.

18. When an Advowson purchased under this Act shall be granted to the Purchaser by the Lord Chancellor, the Purchaser shall be deemed to be indefeasibly entitled to the Advowson described in the Grant, free from all other Estates, Incumbrances, and Interests whatsoever, including all Estates, Interests, and Claims of Her Majesty, Her Heirs and Successors.

Power for limited Owners to purchase.

19. Any Person entitled under any Settlement at Law or Equity for his own Benefit to the Possession or Receipt of the Rents and Profit of Land for the Term of his own Life or in Tail shall, for the Purposes of this Act, be deemed to be absolute Owner of that Land; and any Annuity or Rentcharge granted by such Tenant for Life or in Tail in the Purchase of an Advowson under this Act, with Consent of the Person entitled to the next vested Estate of Inheritance, or, if a Minor, with Consent of his Guardian lawfully appointed for such Purpose, shall be well charged on the Estates of all the Persons claiming under such Settlement; but any Advowson purchased by such Owner shall be deemed to be held on trust for the Persons entitled under the Settlement, in the same Manner as if there had been

been contained in the Settlement a Power to sell the Land comprised in the Settlement, or a Portion thereof, and to apply the Monies arising therefrom in the Purchase of an Advowson, to be settled on the same Trusts as the Land sold, and such Purchase had been made accordingly.

Power for Corporation to purchase.

20. Any Person or Body of Persons, corporate or unincorporate, may purchase and hold Advowsons under this Act without Licence in Mortmain, except such Persons or Bodies of Persons as may for the Time being be prohibited by Law from holding Advowsons or presenting to Benefices; but no Person or Body of Persons, corporate or unincorporate, shall, either directly or indirectly, at any one Time, hold or be entitled to more than Four of the Advowsons hereby made saleable. Every Advowson acquired or held by any Person or Persons in breach of this Provision shall be forfeited to the Crown, and be again saleable under this Act, but this Provision shall not apply to any Advowson taken by Descent.

Questions concerning Application of Act to be argued before Lord Chancellor.

21. If in respect of any Contract for the Sale of an Advowson under this Act any Question shall arise touching the Construction or Application of this Act, it shall be lawful for the Lord Chancellor to direct the same to be argued before himself or any other Judge of the Court of Chancery by Counsel, and the Decision or Direction of the Lord Chancellor or of such other Judge shall be final.

Tenant in Tail or in Fee of Lands within the Limits of certain Livings may apply for the Purchase of the Advowson.

22. Any Person who is Tenant in Tail or in Fee, either in possession, remainder, or reversion, of any Freehold or Copyhold Lands situate within the Limits of any Living in the Gift of the Lord Chancellor, whether included or not in the First Schedule hereto, the clear annual Value of which, to be ascertained as aforesaid, is not less than Two hundred Pounds per Annum nor more than Five hundred Pounds per Annum, may apply to the Lord Chancellor for the Purchase of the Advowson of such Living; and it shall be lawful for the Lord Chancellor to sell and convey the Advowson of such Living to the Applicant, either absolutely, or to the Uses or upon the Trusts of any Settlement of such Lands.

Proviso.

23. Provided that the total Number of the Livings to be disposed of under this Power shall not exceed One hundred, nor shall any Advowson be sold for a less Sum than Ten Years Purchase of the clear annual Value of the Living, to be ascertained as aforesaid, nor for a Sum which shall not be certified by the Ecclesiastical Commissioners to be reasonable and adequate, regard being had to the Age of the Incumbent at the Time of Sale.

Purchase Money for such Livings to be paid to Ecclesiastical Commissioners to Credit of a distinct Account.

24. The Purchase Money of all such last-mentioned Livings shall be paid to the Ecclesiastical Commissioners to the Credit of a distinct Account, to be called "The Lord Chancellor's Augmentation Account, No. 2.;" and the Money, when so paid in, shall, unless the Lord Chancellor shall otherwise direct, be immediately laid out in the Purchase of Three per Cent. Reduced Bank Annuities, and the Dividends thereof shall be in like Manner duly invested and accumulated at Compound Interest by the Ecclesiastical Commissioners, until the Lord Chancellor shall make any Order for the Application of such Purchase Money or of the Funds so produced by the Investment thereof.

Lord Chancellor may augment Benefices in his Gift.

25. It shall be lawful for the Lord Chancellor, at his Discretion, to augment any Benefice in his Gift to such an Amount as he may think fit, and for the Purpose of such Augmentation to exercise over the Funds lastly herein-before mentioned all such Powers as the Ecclesiastical Commissioners are, or may be, by Law authorized to exercise over the Common Fund at their Disposal: Provided that no such Benefice shall, with the Augmentation, amount to an annual Value of more than Four hundred Pounds, nor to an annual Value exceeding One Pound Sterling for every Four Inhabitants within the Limits thereof.

Proviso.

How annual Value is to be ascertained.

26. In all Cases the annual Value shall be ascertained in the Manner herein-before directed, and the Number of Inhabitants within the Limits of any Living shall be determined by a Reference to the last preceding Census.

Miscellaneous Provisions.

Limiting Amount of Fees on the Purchase of Advowsons.

27. No Fees shall be payable on any Application to the Lord Chancellor under this Act, or in respect of anything that shall be done thereon, until the Contract for the Purchase of any Advowson shall be completed, when the Sum of Ten Pounds shall be paid by the Purchaser to the Lord Chancellor's Secretary of Presentations, to be applied in Payment of the Salaries and Expenses that may be payable under this Act.

Limiting Fees to be paid in Office of Land Registry.

28. No Fees shall be paid by any Purchaser in the Office of Land Registry, save such Sums as shall be actually paid to any Examiner of Titles, Surveyor, or other Person in investigating the Title of the Purchaser, and ascertaining the Sufficiency of any proposed Security.

Payment of Expenses under this Act.

29. If any Expenses are incurred by the Lord Chancellor in any Proceedings under this Act with respect to the Sale of any Advowson, such

such Expenses shall be deducted from the Monies received under this Act.

As to the Lord Chancellor's Secretary of Presentations.

30. The Business to be transacted under this Act shall be managed by the Lord Chancellor's Secretary of Presentations, under the Superintendence and Control of the Lord Chancellor. By whom Business to be transacted.

31. In respect of the additional Duties imposed upon him under this Act the Secretary of Presentations shall be remunerated in such Manner as the Lord Chancellor shall from Time to Time direct. Salary of Secretary.

32. A Return shall be laid before Parliament within Fourteen Days after the Commencement of each Session of all Sales that shall have been effected under the Powers of this Act, and of the Terms on which such Sales have been effected, and of all Monies received under the Authority of this Act, and of the Application thereof. Returns to be made to Parliament.

33. The Lord Chancellor shall have Authority to make from Time to Time General Orders for regulating all Proceedings under this Act, and such Orders shall be laid before Parliament within Fourteen Days after the same are made if Parliament be then sitting, and if not, within Fourteen Days after the next Session of Parliament has commenced. Lord Chancellor to make General Orders for regulating Proceedings.

34. The Lord Chancellor shall not incur or be subject to any personal Liability, nor shall he be made a Party to any Proceeding at Law or in Equity, by reason or in consequence of anything done under the Provisions of this Act; and if any Dispute, Doubt, or Difficulty whatever shall arise with respect to any Sale, Contract, or Agreement under this Act before the Completion thereof, it shall be lawful for the Lord Chancellor by Writing under his Hand to annul and determine such Sale, Contract, or Agreement, and the same shall thenceforth be void and of no Effect. Lord Chancellor not to incur personal Liability, &c. in respect of Proceedings under this Act.

35. The Term "Lord Chancellor" shall include Lord Keeper and Commissioner of the Great Seal; and the Terms "Advowson," "Living," and "Benefice" shall include Vicarages and Perpetual Curacies. Interpretation of Terms.

36. This Act shall come into operation on the First Day of November One thousand eight hundred and sixty-three, and may be cited as "The Lord Chancellor's Augmentation Act," but the Provisions herein-before contained with respect to Returns to be made by Incumbents shall come into operation immediately on the passing of this Act. Commencement of Act.

SCHEDULES.

FIRST SCHEDULE.

Name of Benefice.	County.	Diocese.
Abbotsham	Devon	Exeter.
Acrise	Kent	Canterbury.
Addlethorpe	Lincoln	Lincoln.
Alderminster	Worcester	Worcester.
Alfriston	Sussex	Chichester.
Ampney Crucis	Gloucester	Gloucester and Bristol.
Ansley	Warwick	Worcester.
Anstey	Warwick	Worcester.
Ashbury	Devon	Exeter.
Ashcombe	Devon	Exeter.
Ashford	Middlesex	London.
Ashford	Devon	Exeter.
Aston Blank	Gloucester	Gloucester and Bristol.
Astwood	Bucks	Oxford.
Athelington	Suffolk	Norwich.
Atwick	York	York.
Austrey	Warwick	Worcester.
Avebury	Wilts	Sarum.
Avenbury	Hereford	Hereford.
Baldock	Hertford	Rochester.
Bampton	Westmoreland	Carlisle.
Barrington, Little	Gloucester	Gloucester and Bristol.
Barton St. Andrew	Norfolk	Norwich.
Baschurch	Salop	Lichfield.
Baston	Lincoln	Lincoln.
Bawdsey	Suffolk	Norwich.
Beesby	Lincoln	Lincoln.
Beyton	Suffolk	Ely.
Bicknor	Kent	Canterbury.
Bicknor Welsh	Hereford	Hereford.
Birkby	York	York.
Braceborough	Lincoln	Lincoln.
Bradwell	Bucks	Oxford.
Bramdean	Hants	Winchester.
Bramfield	Suffolk	Norwich.
Bramford Speke	Devon	Exeter.
Bramley	Surrey	Winchester.
Brinklow	Warwick	Worcester.
Brooke	Norfolk	Norwich.
Broughton Hacket	Worcester	Worcester.
Bumstead, Steeple	Essex	Rochester.
Burgh by Sands	Cumberland	Carlisle.
Burmarsh	Kent	Canterbury.

Name of Benefice.	County.	Diocese.
Burrington	Hereford	Hereford.
Burthorpe, alias East Leach Martin.	Gloucester	Gloucester and Bristol.
Butterleigh	Devon	Exeter.
Byford	Hereford	Hereford.
Byton	Hereford	Hereford.
Cadbury	Devon	Exeter.
Canterbury St. Mildred, &c.	Kent	Canterbury.
Cardigan	Cardigan	St. David's.
Castle Church	Stafford	Lichfield.
Catwick	York	York.
Cavenham	Suffolk	Ely.
Chalk	Kent	Rochester.
Chillenden	Kent	Canterbury.
Chilvers Coton	Warwick	Worcester.
Chinnock, East	Somerset	Bath and Wells.
Churchlench	Worcester	Worcester.
Churchstow	Devon	Exeter.
Churton	Wilts	Sarum.
Clannaborough	Devon	Exeter.
Coaley	Gloucester	Gloucester and Bristol.
Colchester St. James	Essex	Rochester.
Colden (or Cowden) Parva	York	York.
Cornwell	Oxford	Oxford.
Corton	Suffolk	Norwich.
Coulstone	Wilts	Sarum.
Covenham St. Mary	Lincoln	Lincoln.
Creeton	Lincoln	Lincoln.
Cretingham	Suffolk	Norwich.
Cromweare	Pembroke	St. David's.
Croome Hill	Worcester	Worcester.
Croxby	Lincoln	Lincoln.
Cutcombe	Somerset	Bath and Wells.
Dacre	Cumberland	Carlisle.
Deane	Lancaster	Manchester.
Desford	Leicester	Peterborough.
Dinnington	York	York.
Ditchling	Sussex	Chichester.
Doddington, Great	Northampton	Peterborough.
Downton	Hereford	Hereford.
Drax	York	York.
Dronfield	Derby	Lichfield.
Dunstable	Bedford	Ely.
Dunton	Norfolk	Norwich.
Dymchurch	Kent	Canterbury.
Earl's Barton	Northampton	Peterborough.
Easby	York	Ripon.
Eastrington	York	York.
Eastwood	Essex	Rochester.
Eaton	Leicester	Peterborough.
Effingham	Surrey	Winchester.
Eglwys Cymmen	Carmarthen	St. David's.
Elmstone Hardwick	Gloucester	Gloucester and Bristol.
Eversden, Great	Cambridge	Ely.

Name of Benefice.	County.	Diocese.
Evesham All Saints with St. Lawrence.	Worcester	Worcester.
Ewerby	Lincoln	Lincoln.
Exeter St. Olave	Devon	Exeter.
Farnham	Dorset	Sarum.
Fewston	York	Ripon.
Fifield	Hants	Winchester.
Fishbourne	Sussex	Chichester.
Fishguard	Pembroke	St. David's.
Fotherby	Lincoln	Lincoln.
Freystrop	Pembroke	St. David's.
Frisby	Leicester	Peterborough.
Garsdale-in-Sedburgh	York	Ripon.
Garton-in-Holderness	York	York.
Garton-in-the-Wolds	York	York.
Gautby	Lincoln	Lincoln.
Geldestone	Norfolk	Norwich.
Gidding, Little	Huntingdon	Ely.
Gloucester St. John	Gloucester	Gloucester and Bristol.
Goxhill	Lincoln	Lincoln.
Grandborough	Bucks	Oxford.
Grinton	York	Ripon.
Grosmont	Monmouth	Llandaff.
Guildford Holy Trinity with St. Mary.	Surrey	Winchester.
Halwell	Devon	Exeter.
Ham	Kent	Canterbury.
Hampton Wick	Middlesex	London.
Hart	Durham	Durham.
Hartford	Huntingdon	Ely.
Haselor	Warwick	Worcester.
Haskard	Pembroke	St. David's.
Hatfield	Hereford	Hereford.
Heanor	Derby	Lichfield.
Heath (or Hethe)	Oxford	Oxford.
Helmsley, Upper	York	York.
Hemley	Suffolk	Norwich.
Herbranston	Pembroke	St. David's.
Hermitage	Dorset	Sarum.
Hindon	Wilts	Sarum.
Hoathly, West	Sussex	Chichester.
Hollacombe	Devon	Exeter.
Holmpton	York	York.
Holton-le-Clay	Lincoln	Lincoln.
Hope Mansell	Hereford	Hereford.
Hough-on-the-Hill	Lincoln	Lincoln.
Howden	York	York.
Hubberston	Pembroke	St. David's.
Humber	Hereford	Hereford.
Humbleton	York	York.
Hunningham	Warwick	Worcester.
Huntingdon All Saints with St. John.	Hunts	Ely.
Huntingdon St. Mary with St. Benedict.	Hunts	Ely.

Name of Benefice.	County.	Diocese.
Hyson Green	Nottingham	Lincoln.
Ichenor, West	Sussex	Chichester.
Ilston	Glamorgan	St. David's.
Islington	Norfolk	Norwich.
Kenchester	Hereford	Hereford.
Kettlestone	Norfolk	Norwich.
Kilmersdon	Somerset	Bath and Wells.
Kilton	Somerset	Bath and Wells.
Kilverston	Norfolk	Norwich.
Kingsbury	Warwick	Worcester
Kinnerley	Salop	Lichfield.
Kirkburn	York	York.
Kirkby-on-the-Green	Lincoln	Lincoln.
Kirk Oswald	Cumberland	Carlisle.
Knarsdale	Northumberland	Durham.
Laleham	Middlesex	London.
Langham St. Mary	Suffolk	Ely.
Leicester All Saints with St. Leonard.	Leicester	Peterborough.
Leicester St. Martin	Leicester	Peterborough.
Leicester St. Mary	Leicester	Peterborough.
Leicester St. Nicholas	Leicester	Peterborough.
Lewes St. Michael	Sussex	Chichester.
Lewes St. John Southover	Sussex	Chichester.
Lilburne	Northampton	Peterborough.
Lillingston Lovell	Oxford	Oxford.
Longham, &c.	Norfolk	Norwich.
Longney	Gloucester	Gloucester and Bristol.
Loxley	Warwick	Worcester.
Lullington	Derby	Lichfield.
Marloes	Pembroke	St. David's.
Meavy	Devon	Exeter.
Melling	Lancaster	Manchester.
Mellis	Suffolk	Norwich.
Merston	Kent	Rochester.
Middleton	Sussex	Chichester.
Naunton Beauchamp	Worcester	Worcester.
Newhaven	Sussex	Chichester.
Newport	Essex	Rochester.
Newton Tracey	Devon	Exeter.
Newton, West	Norfolk	Norwich.
Ninehead	Somerset	Bath and Wells.
Nolton	Pembroke	St. David's.
North Leigh	Oxford	Oxford.
Norton	Radnor	Hereford.
Nottingham St. James	Notts	Lincoln.
Nottingham St. Nicholas	Notts	Lincoln.
Nottingham St. Peter	Notts	Lincoln.
Offham	Kent	Canterbury.
Osmotherley	York	York.
Otley	York	Ripon.
Ottery St. Mary	Devon	Exeter.
Ouseborne, Great	York	Ripon.
Oxford St. Clement	Oxford	Oxford.
Oxford St. Ebbe	Oxford	Oxford.

Name of Benefice.	County.	Diocese.
Oxford St. Peter-le-Bailey	Oxford	Oxford.
Padbury	Bucks	Oxford.
Patcham	Sussex	Chichester.
Patishall, 1st Mediety	Northampton	Peterborough.
Peatling, Little	Leicester	Peterborough.
Pentridge	Dorset	Sarum.
Pelton	Salop	Lichfield.
Pilham	Lincoln	Lincoln.
Portchester	Hants	Winchester.
Port Eynon	Glamorgan	St. David's.
Portslade	Sussex	Chichester.
Poughill	Cornwall	Exeter.
Prendergast	Pembroke	St. David's.
Pwllcrochan	Pembroke	St. David's.
Radnage	Bucks	Oxford.
Ramsbury	Wilts	Sarum.
Rasen, Market	Lincoln	Lincoln.
Ratcliffe-on-Wreke	Leicester	Peterborough.
Ratley	Warwick	Worcester.
Rhoselly	Glamorgan	St. David's.
Rillington	York	York.
Ripton Kings	Hants	Ely.
Rissington Wick	Gloucester	Gloucester and Bristol.
Rokeby	York	Ripon.
Roding Leaden	Essex	Rochester.
Rollstone	Wilts	Sarum.
Rosemarket	Pembroke	St. David's.
Rougham	Norfolk	Norwich.
Rowington	Warwick	Worcester.
Rowley Regis	Stafford	Worcester.
Rudbaxton	Pembroke	St. David's.
Runnington	Somerset	Bath and Wells.
Rupa	Pembroke	St. David's.
Rushden	Northampton	Peterborough.
Ruskington, 2d Mediety	Lincoln	Lincoln.
Sandal, Great	York	Ripon.
Seighford	Stafford	Lichfield.
Sellinge St. Mary	Kent	Canterbury.
Shadoxhurst	Kent	Canterbury.
Shalfleet	Hants (Isle of Wight)	Winchester.
Sharnbrook	Bedford	Ely.
Shilbottle	Northumberland	Durham.
Shilton	Warwick	Worcester.
Shoebury, North	Essex	Rochester.
Shorncolt	Wilts	Gloucester and Bristol.
Skirpen Beck	York	York.
Sneaton	York	York.
Somerby	Lincoln	Lincoln.
Sotby	Lincoln	Lincoln.
Southampton St. Lawrence with St. John.	Hants	Winchester.
Southampton St. Michael	Hants	Winchester.
Southwick	Sussex	Chichester.
Spernall	Warwick	Worcester.
Springthorpe	Lincoln	Lincoln.

Name of Benefice.	County.	Diocese.
St. Anthony-in-Meneage	Cornwall	Exeter.
St. Edren's	Pembroke	St. David's.
St. Endellion	Cornwall	Exeter.
St. Ishmael	Pembroke	St. David's.
St. Lawrence	Pembroke	St. David's.
St. Neot's	Huntingdon	Ely.
Stainbridge, Little	Essex	Rochester.
Stanton-on-Arrow	Hereford	Hereford.
Stockleigh English	Devon	Exeter.
Stokenchurch	Oxford	Oxford.
Stoke Ferry	Norfolk	Norwich.
Stoke, North	Somerset	Bath and Wells.
Stoke, West	Sussex	Chichester.
Stone	Stafford	Lichfield.
Stotsbury	Northampton	Peterborough.
Stowe	Salop	Hereford.
Stratford St. Andrew	Suffolk	Norwich.
Studham	Bedford	Ely.
Sturton, Great	Lincoln	Lincoln.
Sutterby	Lincoln	Lincoln.
Sutton, near Seaford, &c.	Sussex	Chichester.
Swanbourne	Bucks	Oxford.
Swilland	Suffolk	Norwich.
Thenford	Northampton	Peterborough.
Thorner	York	Ripon.
Thorpe St. Mary	Surrey	Winchester.
Throwley	Devon	Exeter.
Tilshead	Wilts	Sarum.
Tiptree Heath	Essex	Rochester.
Tolland	Somerset	Bath and Wells.
Totness	Devon	Exeter.
Tresmere	Cornwall	Exeter.
Ubley	Somerset	Bath and Wells.
Uley	Gloucester	Gloucester and Bristol.
Uphaven	Wilts	Sarum.
Upton, &c.	Bucks	Oxford.
Upton Waters	Salop	Lichfield.
Virginstow	Devon	Exeter.
Waddingworth	Lincoln	Lincoln.
Walton on Thames	Surrey	Winchester.
Welham	Leicester	Peterborough.
Welton	Northampton	Peterborough.
Welwick	York	York.
Wenhaston	Suffolk	Norwich.
Westbere	Kent	Canterbury.
Weston	Lincoln	Lincoln.
Wexham	Bucks	Oxford.
Wherstead	Suffolk	Norwich.
Whipsnade	Bedford	Ely.
Whitchurch	Bucks	Oxford.
Wickham Market	Suffolk	Norwich.
Wiggenhall St. Mary	Norfolk	Norwich.
Wiggenhall St. Peter	Norfolk	Norwich.
Willerby	York	York.
Willeys	Warwick	Worcester.

Name of Benefice.	County.	Diocese.
Winchester St. Bartholomew	Hants	Winchester.
Winchester St. Peter Cheese-hill.	Hants	Winchester.
Winslow	Bucks	Oxford.
Winterton	Lincoln	Lincoln.
Worcester All Saints	Worcester	Worcester.
Wrestlingworth	Bedford	Ely.
Wrockwardine Wood	Salop	Lichfield.
Yarmouth	Hants (Isle of Wight)	Winchester.
Yarnscombe	Devon	Exeter.
Yaxley	Hunts	Ely.
Yeldon, Little	Essex	Rochester.
York All Saints	York	York.
York Holy Trinity, Micklegate.	York	York.
York St. Denis with St. George.	York	York.
York St. Margaret with St. Peter-le-Willows.	York	York.
York St. Mary Bishopshill Senior.	York	York.
York St. Saviour	York	York.

SECOND SCHEDULE.

Form of Grant of Advowson

Know all Men, that by virtue of the Power given to me by the Statute passed, &c., and in consideration that the Value of the Property hereby granted as required by the said Act has been duly secured and paid, I, the undersigned, *A.B.*, Lord High Chancellor of Great Britain, do hereby appoint and grant unto *C.D.* and his Heirs, all that the Advowson, &c. [*insert Parcels*] subject to the present Incumbency; to hold unto the said *C.D.*, his Heirs and Assigns for ever, for an absolute and indefeasible Estate of Inheritance.

In witness, &c.

Form of Grant of Annuity.

Know all Men, that in pursuance of the Act [*insert Title*] and of a Contract for the Purchase of the Advowson of [*Name*], I, the undersigned *A.B.*, do grant unto *C.D.*, Incumbent of the Parish Church of [*Name*], and his Successors, Incumbents of the said Church for ever, One Annuity or yearly Rentcharge of £ to issue out of and be charged upon all [*describe the Estate*]; to hold unto the said *C.D.* and his Successors, Incumbents of the Parish of [*Name*], for ever as a perpetual Annuity or Rentcharge, free from all Charges and Deductions.

Form

Form of Mortgage for Purchase Money to be paid on next Avoidance of the Living.

These Presents witness, that pursuant to the Act [*insert Title*], and to a Contract for the Purchase of the Advowson of [*Name*], I, the undersigned *A.B.*, [*Description,*] do grant and release unto the Ecclesiastical Commissioners for England all, &c. [*Parcels*], to hold unto the Ecclesiastical Commissioners and their Successors, subject to Redemption on Payment by me, my Heirs, Executors, Administrators, or Assigns, to the Ecclesiastical Commissioners, when and so soon as the Church of the said Living shall next become vacant, of such Principal Sum as shall be equal to the Sum which the Sum of £ [*the Half or other Part of the Purchase Money*] mentioned in the said Contract would amount to if duly accumulated at the Rate of Four Pounds per Centum per Annum between the Date of the said Contract and the Day next after the Day when the said Church became vacant, the Amount to be ascertained by the Actuary employed by the said Commissioners. And I, the said *A.B.*, do covenant for myself and my Heirs with the said Commissioners to pay such Sum, when ascertained as aforesaid, on Demand.

In witness, &c.

Augmentation of Benefices.

A

B I L L

INTITULED

An Act for the Augmentation of certain Benefices, the Right of Presentation to which is vested in the Lord Chancellor.

(*Brought from the Lords* 18 *May* 1863.)

Ordered, by The House of Commons, *to be Printed,* 19 *May* 1863.

[Bill 134.]

Under 3 oz.

Bakehouses Regulation Bill.

ARRANGEMENT OF CLAUSES.

Preamble.
Short Title of Act; Sect. 1.
Interpretation of Terms; 2.
Limitation of Hours of Labour of young Persons; 3.
Regulations as to Cleanliness of Bakehouse; 4.
Sleeping Place near Bakehouse; 5.
Inspector of Local Authority; 6.
Expenses of Local Authority; 7.
Recovery of Penalties; 8.
Jurisdiction of certain Magistrates; 9.

A

B I L L

FOR

The Regulation of Bakehouses.

WHEREAS it is expedient to limit the Hours of Labour of young Persons employed in Bakehouses, and to make Regulations with respect to Cleanliness and Ventilation in Bakehouses: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. This Act may be cited as "The Bakehouse Regulation Act, 1863." Short Title of Act.

2. For the Purposes of this Act the Words herein-after mentioned shall be construed as follows; that is to say, Interpretation of Terms.

"Local Authority" shall, as respects any Place, mean the Persons or Bodies of Persons defined to be the Local Authority in that Place by the Nuisances Removal Acts herein-after mentioned; that is to say, as to England, by the Act passed in the Session holden in the Eighteenth and Nineteenth Years of the Reign of Her present Majesty, Chapter One hundred and twenty-one, as amended by the Act passed in the Session holden in the

Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Seventy-seven; as to Scotland, by the Act passed in the Session holden in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter One hundred and three; and as to Ireland, by the Acts passed, the one in the Session holden in the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter One hundred and twenty-three, and the other in the Session holden in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter One hundred and eleven:

"Bakehouse" shall mean any Place in which are baked Bread, Biscuits, or Confectionery, from the baking or selling of which a Profit is derived:

"Employed," as applied to any Person, shall include any Person working in a Bakehouse, whether he receives Wages or not:

"Owner" shall include Occupier or any Person in possession:

"The Court" shall include any Justice or Justices, Sheriff or Sheriff Substitute, Magistrate or Magistrates, to whom Jurisdiction is given by this Act.

Limitation of Hours of Labour of young Persons.

3. No Person under the Age of *Eighteen* Years shall be employed in any Bakehouse between the Hours of *Nine* of the Clock at Night and *Five* of the Clock in the Morning.

If any Person is employed in contravention of this Section the Owner of the Bakehouse in which he is employed shall incur the following Penalties in respect of each Person so employed; that is to say,

For the First Offence, a Sum not exceeding *Two Pounds:*

For a Second Offence, a Sum not exceeding *Five Pounds:*

For a Third and every subsequent Offence, a Sum not exceeding *One Pound* for each Day of the Continuance of the Employment in contravention of this Act, so that no greater Penalty be imposed than *Ten Pounds.*

Regulations as to Cleanliness of Bakehouse.

4. The inside Walls and Ceiling or Top of every Bakehouse, and the Passages and Staircase leading thereto, shall either be painted with Oil or be limewashed, or partly painted and partly limewashed: Where painted with Oil there shall be Three Coats of Paint, and the painting shall be renewed once at least in every *Seven Years*, and shall be washed with hot Water and Soap once at least in every *Six Months:* Where limewashed the limewashing shall be renewed once at least in every *Six Months.*

Every Bakehouse shall be kept in a cleanly State, and shall be provided with proper Means for effectual Ventilation, and be free from Effluvia arising from any Drain, Privy, or other Nuisance.

If

If the Owner of any Bakehouse fails to keep the same in conformity with this Section he shall be deemed to be guilty of an Offence against this Act, and to be subject in respect of such Offence to a Penalty not exceeding *Five Pounds* nor less than *Two Pounds.*

The Court having Jurisdiction under this Act may, in addition to or instead of inflicting any Penalty in respect of an Offence under this Section, make an Order directing that within a certain Time to be named in such Order certain Means are to be adopted by the Owner for the Purpose of bringing his Bakehouse into conformity with this Section; the Court may upon Application enlarge any Time appointed for the Adoption of the Means directed by the Order, but any Non-compliance with the Order of the Court shall, after the Expiration of the Time as originally limited or enlarged by subsequent Order, be deemed to be a continuing Offence, and to be punishable by a Penalty not exceeding *One Pound* for every Day that such Non-compliance continues.

Sleeping Place near Bakehouse.

5. No Place on the same Level with a Bakehouse, and forming Part of the same Building, shall be used as a Sleeping Place, unless it is constructed as follows; that is to say,

Unless it is effectually separated from the Bakehouse by a Partition extending from the Floor to the Ceiling:

Unless there be an external glazed Window of at least *Nine* Superficial Feet in Area, of which at the least *Four and a Half* Superficial Feet are made to open for Ventilation:

And any Person who lets, occupies, or continues to let, or knowingly suffers to be occupied, any Place contrary to this Act, shall be liable for the First Offence to a Penalty not exceeding *Twenty Shillings*, and for every subsequent Offence to a Penalty not exceeding *Five Pounds.*

Inspector of Local Authority.

6. It shall be the Duty of the Local Authority to enforce within their District the Provisions of this Act, and in order to facilitate the Enforcement thereof any Officer of Health, Inspector of Nuisances, or other Officer appointed by the Local Authority, herein-before referred to as the Inspector, may enter into any Bakehouse at all Times during the Hours of baking, and may inspect the same, and examine whether it is or not in conformity with the Provisions of this Act; and any Person refusing Admission to the Inspector, or obstructing him in his Examination, shall for each Offence incur a Penalty not exceeding *Twenty Pounds;* and it shall be lawful for any Inspector who is refused Admission to any Bakehouse, in pursuance of this Section, to apply to any Justice for a Warrant authorizing

rizing him, accompanied by a Police Constable, to enter into any such Bakehouse for the Purpose of examining the same, and to enter the same accordingly.

Expenses of Local Authority.

7. All Expenses incurred by any Local Authority in pursuance of the Provisions of this Act may be paid out of any Rate leviable by them, and applicable to the Payment of the Expenses incurred by the Local Authority under the said Nuisances Removal Acts, and the said Authority may levy such Rate accordingly.

Penalties.

Recovery of Penalties.

8. All Penalties under this Act may be recovered summarily before *Two* or more Justices; as to England, in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act to facilitate the Perform- "ance of the Duties of Justices of the Peace out of Sessions "within England and Wales with respect to summary Convictions "and Orders," or any Act amending the same; as to Ireland, in manner directed by the Act passed in the Session holden in the Fourteenth and Fifteenth Years of the Reign of Her Majesty Queen Victoria, Chapter Ninety-three, intituled "An Act to consolidate "and amend the Acts regulating the Proceedings of Petty Sessions "and the Duties of Justices of the Peace out of Quarter Sessions in "Ireland," or any Act amending the same; and as to Scotland, upon summary Conviction, with Power for the Justices having Cognizance of the Case to sentence the Offender to Imprisonment for a Period not exceeding *Three Months* until the Penalty and the Expenses of Conviction are paid.

Jurisdiction of certain Magistrates.

9. Any Act, Power, or Jurisdiction hereby authorized to be done or exercised by *Two* Justices may be done or exercised by the following Magistrates within their respective Jurisdictions; that is to say, as to England, by any Metropolitan Police Magistrate or other Stipendiary Magistrate sitting alone at a Police Court or other appointed Place, or by the Lord Mayor of the City of London, or any Alderman of the said City sitting alone or with others at the Mansion House or Guildhall; as to Ireland, by any One or more Divisional Magistrates of Police in the Police District of Dublin, and elsewhere by *One* or more Justice or Justices of the Peace in Petty Sessions; and as to Scotland by the Sheriff or Sheriff Substitute, or by any Police Magistrate of a Burgh.

LORDS AMENDMENTS

TO THE

BAKEHOUSES REGULATION BILL.

Note.—*The Page and Line refer to Bill* (85.) *as printed by the Lords.*

Page 2.

Line 17. Leave out ("Owner") and insert ("Occupier") and leave out ("Occupier or")

Line 25. Leave out ("Owner") and insert ("Occupier")

Line 34. After ("Bakehouse") insert ("situate in any City, "Town, or Place containing, according to the last "Census, a Population of more than Five thousand "Persons")

Line 42. After ("Bakehouse") insert ("wherever situate")

Page 3.

Line 1. Leave out ("Owner") and insert ("Occupier")

Line 4. Leave out ("nor less than Two Pounds")

Line 8. Leave out ("Owner") and insert ("Occupier")

Line 17. After ("Bakehouse") insert ("situate in any City, "Town, or Place containing, according to the last "Census, a Population of more than Five thousand "Persons")

[Bill 188.]

LORDS AMENDMENTS

TO THE

BAKEHOUSES REGULATION BILL.

Ordered, by The House of Commons, *to be Printed,*
25 *June* 1863.

[Bill 188.]

Under 1 *oz.*

13 *February* 1863. 26 Vict.

A

BILL

TO

Amend the Mode of taking Votes at Municipal Elections.

WHEREAS it is expedient that the Law relating to Municipal Elections in England and Wales should be amended as to the Mode and Manner in which the Votes of the Electors at the same are taken; Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The Votes of the Burgesses at any Election of Councillors to be held for any Borough or Ward shall be taken by Ballot instead of by Voting Papers as at present required, in all Places where the Majority of the Council of any Borough shall so agree and determine. Votes of Burgesses at Municipal Elections to be taken by Ballot.

2. The Mode, Manner, and Machinery of taking such Votes by Ballot shall in all respects be settled and determined by the Town Council as they may think fit. Mode of taking Votes by Ballot to be settled by Council.

3. Every Plan and Scheme for taking Votes by Ballot having been fixed and determined by the Town Council shall be signed by the Mayor Plan of voting to be published

and remain in force for Five Years.

Mayor and published for the Information of the Burgesses, and such Mode of taking Votes shall remain in force, and shall not in any respect be altered for the Term of *Five* Years from the Adoption thereof.

Power to alter Mode in which Voting Papers delivered to Mayor.

4. The Majority of the Council of any Borough shall further have Power to alter the Mode and Manner in which Voting Papers, as at present required, shall be delivered to the Mayor and Assessors, or other presiding Officer, and may provide Balloting Glasses and Boxes in which the Electors shall deposit their Voting Papers, folded up, according to the Form now practised under the Seventeenth and Eighteenth Clauses of the Metropolis Local Management Act, Eighteenth and Nineteenth Victoria, Chapter One hundred and twenty, in the Metropolitan Districts.

A

B I L L

TO

Amend the Law relating to the Admission of Barristers to practise in Ireland.

WHEREAS by an Act of the Parliament of Ireland, made in the Second Session of the said Parliament holden in the Thirty-third Year of the Reign of King Henry the Eighth, Chapter Three, intituled "An Act touching Mispleading and "Jeofailes," it is by Section Three of the said Act enacted in the Words following, that is to say, "That no Person or Persons that now is or "hereafter shall be admitted or allowed in any of the King's principal "Courts within this His Grace's Realm in any Cause or Matter, "whatsoever it be, or yet to make or exhibit to or in any of the said "Four Courts any Declaration or Bill, Plea in Bar, Replication, or Re-"joinder, or to give Evidence to any Jury, unless it be for the King's "Majesty, or to argue any Matter in Law, or yet to do or minister "any other Thing or Things in any of the said Four Courts which "customarily hath been used to be done by One learned or taken to be "learned in the King's Laws, but such Person and Persons hath or shall "be for the same Act One Time or several Times by the Space of "Years complete at the last resiant and demurrant in One of the "Inns of Court within the Realm of England, studying, practising, "or endeavouring themselves the best Way they can to come to the "true

Preamble.

33 Hen. 8. stat. 2. c. 3. s. 3.

" true Knowledge and Judgment of the said Laws, upon pain of One " hundred Shillings to every Person or Persons offending contrary to " the Provisoe last before specified, or anything therein contained:" And whereas the Provisions of the said Act were made perpetual by another Act of the said Parliament of Ireland, made in the First Session of the said Parliament holden in the Eleventh Year of the Reign of Queen Elizabeth, and Chapter Five, intituled " An Act for " reviving the Statute against Gray Merchants, the Statute for " Servants Wages, and the Statute for Jeofailes:" And whereas the Provost and Senior Fellows of Trinity College, Dublin, have recently increased the Salary and Emoluments of the Regius Professor of Feudal and English Law in the University of Dublin, and also the Salary and Emoluments of the Regius Professor of Civil Law in the said University, and have enlarged the Course of Legal Education to be pursued therein, and the Benchers of the Honourable Society of King's Inns, Dublin, have recently established a Professorship of the Law of Personal Property, Pleading, Practice, and Evidence, and a Professorship of Constitutional, Criminal, and other Crown Law: And whereas by Arrangements entered into between the said Provost and Senior Fellows of Trinity College, Dublin, and the Benchers of the said Society of King's Inns, the Lectures and Teaching of the said Four Professors are available for the Education of the Students at Law and the Establishment of a complete School of Law in Ireland, and the compulsory Attendance of the Students at One of the Inns of Court in London by force of any Statute as aforesaid is inconvenient, and calculated to interfere with the Freedom of such Arrangements as may from Time to Time be made for the systematic Teaching of the Professors of the School of Law in Ireland, and the regular Attendance of the Students thereat interrupts their Studies and entails a useless Expenditure of Time and Money: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

11 Eliz. sess. 1. c. 5. (I.)

Acts requiring Residence of Law Students in London repealed.

1. That the herein-before recited Provision of the said Act of the Thirty-third Year of the Reign of King Henry the Eighth, and the Provisions of the said Act of the Eleventh Year of the Reign of Queen Elizabeth, so far as the said last-mentioned Act makes the said recited Provision of the said Act of Henry the Eighth perpetual, be and are hereby repealed; and that in future Persons seeking to be admitted to practise as Barristers at the Irish Bar shall not be required to keep any Terms Commons, or enter their Names in any of the Inns of Court in London.

2. That

Repeal of 21 & 22 G. 3. c. 32. (I.)

Students in Ireland not to be required to keep more than Twelve Terms.

2. That an Act passed in the Parliament of Ireland in the Twenty-second Year of His late Majesty King George the Third, Chapter Thirty-two, intituled "An Act to regulate the Admission of Barristers "at Law," be and the same is hereby repealed; and that in future any Person seeking to be admitted to practise as a Barrister in Ireland shall not be required to keep more than *Twelve* Terms Commons.

Barristers (Ireland).

A

BILL

To amend the Law relating to the Admission of Barristers to practise in Ireland.

(Prepared and brought in by Mr. Hennessy, Mr. Maguire, and Col. Dickson),

Ordered, by The House of Commons, *to be Printed,* 20 *February* 1863.

[Bill 31.]

Under 1 *oz.*

10 *February* 1863. 26 Vict.

A

BILL

TO

Amend the Law regarding the Jurisdiction and Authority exercised by the Benchers of the Four Inns of Court in England in certain Cases.

Preamble.

WHEREAS it is desirable to amend the Law regarding the Jurisdiction and Authority exercised by the Benchers of the Four Inns of Court in England regarding the Discipline of the Bar: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Benchers of each Inn to elect Three Benchers to form Council of Discipline.

1. That the Benchers of each of the said Four Inns of Court, that is to say, Lincoln's Inn, the Middle Temple, the Inner Temple, and Gray's Inn respectively, shall at the First Council, Parliament, or Pension held in Michaelmas Term in the present Year elect from among themselves *Three* Masters of the Bench, and the *Twelve* Masters of the Bench so elected shall constitute and be called the Council of Discipline and Appeal of the Four Inns of Court, and all Vacancies occurring in such Council shall from Time to Time be filled up by the Election of a Bencher by and from among

among the Benchers of the Inn of which the Person making such Vacancy shall be a Member at the First Council, Parliament, or Pension held after such Vacancy.

Council of Discipline to determine Complaints against Barristers, and Appeals from the Benchers.

2. It shall be lawful for and such Council shall have Power to hear and determine all Charges and Complaints connected with or affecting the Practice and Duties or the Honour of the Legal Profession against any Barrister, made to the Benchers of the Inn of which such Barrister shall be a Member, and such Council shall have the sole and exclusive Power (except as herein-after provided) to disbar any Barrister whom such Council shall find guilty of any Offence deserving such Punishment, or to suspend any such Barrister from Practice for such Time as they shall think proper; and also the said Council shall have Power to hear and determine Appeals from the Benchers of any of the Four Inns of Court in all Cases where such Benchers have refused to admit any Student or to call any Student to the Bar; but in every Case an Appeal shall lie from the Decision of the Council to the Judges of the Superior Courts of Common Law.

Council and Judges on Appeal to hear Cases in open Court except with Consent.

3. The Council of Discipline, and the Judges hearing any Appeal therefrom, shall in all Cases sit in open Court, unless all Parties to the Case shall agree that such Case shall be heard in private; and the Judgments of such Council and of the Judges shall state in Writing the Reasons on which such Judgment is grounded.

Council to frame Rules of Procedure.

4. It shall be lawful for such Council to frame Rules of Procedure for the Regulation of their Proceedings, and such Rules shall be of full Force and Effect, after they shall have been signed by the Majority of the said Council, and by *Three* of the Judges of the Superior Courts of Common Law, and by Her Majesty's Attorney and Solicitor General; and it shall in like Manner be lawful for the said Council from Time to Time to repeal, alter, or amend any of such Rules, by Order, signed as aforesaid.

Council and Judges to have Power to compel Attendance of Witnesses and Production of Papers and all the Powers of a Court of Record.

5. The said Council, and the Judges sitting on Appeal therefrom, shall have all the Powers of compelling the Attendance of Witnesses, and the Production of Papers and Documents, and of punishing Contempts, and all other the Powers which by Law belong to a Court of Record, and also the Power of administering an Oath or Affirmation, as the Case may be, to any Witness appearing before them.

Persons giving false Evidence to be liable to Penalties of Perjury.

6. Any Person examined before such Council of Discipline as aforesaid who shall wilfully give false Evidence shall be liable to the Penalties of Perjury.

7. It

No Member of the Council of Discipline to vote as a Bencher on any Matter brought before the Council.

7. It shall not be lawful for any Member of such Council of Discipline, while he holds the Office of a Member thereof, to vote at any Council, Parliament, or Pension of the Inn of Court of which he is a Bencher, on any Matter which may, under this Act, be brought before or under the Cognizance of such Council of Discipline.

Person charged or Appellant to have right to challenge Three Members of the Council.

8. It shall be lawful for any Person against whom any Charge or Complaint shall be brought before the Council of Discipline, or any Person appealing from the Benchers as aforesaid, to challenge any of the Members of the Council, not exceeding *Three*, and the remaining Members of the Council shall thereupon choose some other Person or Persons, being Barristers, to hear and determine such Charge or Complaint, or Appeal, in the Place of the Person or Persons so challenged.

Person charged or Appellant to have the Right to demand that the Case be brought before the Judges instead of the Council.

9. It shall be lawful for any Person against whom any Charge or Complaint should be made to the Benchers of any Inn of Court, or who shall appeal from the Benchers as aforesaid, to require that such Charge or Complaint preferred against him, or such Appeal, shall be heard and determined by the Judges of the Superior Courts of Common Law instead of the Council of Discipline, and in every such Case the Judges shall hear and determine such Charge or Complaint, or Appeal, and shall have and enjoy all the Rights and Powers which under this Act belong to the Council of Discipline.

Benchers' Jurisdiction and Authority.

A

B I L L

To amend the Law regarding the Jurisdiction and Authority exercised by the Benchers of the Four Inns of Court in England in certain Cases.

(*Prepared and brought in by Sir George Bowyer and Mr. Hennessy.*)

Ordered, by The House of Commons, *to be Printed,* 10 *February* 1863.

[Bill 10.]

Under 1 *oz.*

A

BILL

TO

Make Provision concerning Bills of Exchange and Promissory Notes payable in the Metropolis on the Day appointed for the Passage through the Metropolis of Her Royal Highness the Princess Alexandra of Denmark.

Preamble.

WHEREAS it is intended that Her Royal Highness the Princess Alexandra of Denmark shall pass through the Metropolis on Her Arrival in England on the Seventh Day of March One thousand eight hundred and sixty-three, and it is apprehended that on this Occasion there will be so great a Concourse of People as to materially interfere with the Transaction of Business: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same:

Provisions of 7 & 8 G. 4. c. 15. and 6 & 7 W. 4. c. 58. with respect to Bills of Exchange and Promissory

1. All the Provisions of an Act passed in the Session holden in the Seventh and Eighth Years of King George the Fourth, intituled "An Act for declaring the Law in relation to Bills of Exchange and "Promissory Notes becoming payable on Good Friday or Christmas "Day," and of an Act passed in the Session holden in the Sixth and Seventh Years of King William the Fourth, intituled "An Act for "declaring

Notes payable in the Metropolis on Fast Days, &c. to extend to Bills, &c. payable on the 7th March 1863.

" declaring the Law as to the Day on which it is requisite to present " for Payment to the Acceptors or Acceptor supra Protest for " Honour, or to the Referees or Referee in case of Need, Bills of " Exchange which had been dishonoured," having reference to Days appointed by Royal Proclamation as Days of solemn Fast or Days of Thanksgiving, shall, as respects all Bills of Exchange and Promissory Notes payable in the Metropolis, or which may be presented for Payment in the Metropolis, extend and be applicable to the *Seventh* Day of *March One thousand eight hundred and sixty-three*, as if the said *Seventh* Day of *March* were a Day appointed by Her Majesty's Proclamation for a Day of Thanksgiving.

Notarial Charges occasioned by this Act not to be thrown on the Acceptors.

2. Where any Bill of Exchange or Promissory Note shall by virtue of this Act be presented for Payment on the Day preceding the said *Seventh* Day of *March*, and the same shall be paid before Two of the Clock in the Afternoon of the *Ninth* Day of *March*, no Notarial or other Charges by reason of Nonpayment of such Bill or Note shall be payable by or chargeable against the Person paying such Bill or Note.

Metropolis defined for Purposes of this Act.

3. For the Purposes of this Act the Metropolis shall mean the Metropolis as defined by an Act passed in the Eighteenth and Nineteenth Years of the Reign of Her present Majesty, Chapter One hundred and twenty, and intituled " An Act for the better Local " Government of the Metropolis."

Births and Deaths Registration (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

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FORMS.

A

BILL

FOR

The Registration of Births and Deaths in Ireland.

WHEREAS it is expedient that a complete System of Registration of Births and Deaths should be established in Ireland, as in other Parts of the United Kingdom: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Preliminary.

1. This Act may be cited for all Purposes as "The Registration of Births and Deaths (Ireland) Act." Short Title.

2. This Act, except as herein otherwise provided, shall extend to Ireland only. Act to extend to Ireland only, except, &c.

3. The following Words and Expressions shall, in construing this Act, be taken and understood to have the Meanings hereby assigned to them, unless there be something in the Context repugnant to such Construction; (that is to say,) Interpretation Clause.

"Lord Lieutenant" shall mean and include the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being:

"Lord Lieutenant in Council" shall mean the Lord Lieutenant by and with the Advice of Her Majesty's Privy Council in Ireland:

"Registrar General" shall mean the Registrar General of Births and Deaths in Ireland for the Time being appointed or to be appointed under this Act, and in case of the Absence of the Registrar General shall also mean and include the Assistant Registrar General for the Time being appointed or to be appointed under this Act:

"Occupier" shall, for the Purposes of the Notification of Births and Deaths for Registration under this Act, include the Governor, Keeper, Master, Superintendent, or other chief Resident Officer of every Gaol, Prison, or House of Correction, and of every School, Reformatory, Workhouse, Hospital, Lunatic Asylum, or other Public or Charitable Institution, and where any House is let in separate Apartments or Lodgings shall include the Person under whom such Lodgings or separate Apartments are immediately held, and any Agent or Servant of such Person residing in such House:

"General Search" shall mean a Search during any Number of successive Days, not exceeding *Six*, without stating the Object of Search:

"Particular Search" shall mean a Search over any Period not exceeding *Five* Years for any given Register of Birth or Death.

Part I.

Registrar General.

General Register Office to be provided.

Registrar General to be appointed.

4. The Lord Lieutenant shall cause a proper Office to be provided in the City of Dublin, to be called the "General Register Office," and shall from Time to Time appoint for the said Office a fit and competent Person to be the Registrar General of Births and Deaths in Ireland, who shall hold Office during the Pleasure of the Lord Lieutenant, and be removable by him: Provided always, that the Person who shall at the Date of the passing of this Act hold the Office of Registrar General of Marriages under an Act passed in the Seventh and Eighth Years of Her Majesty, Chapter Eighty-one, shall be appointed to the Office of Registrar General under this Act.

Seal to be provided, and certified Copies given at General Register Office to be sealed therewith.

5. The Registrar General shall cause to be made a Seal of the said General Register Office, and shall cause to be sealed or stamped therewith all certified Copies of Entries given in the said Office; and all certified Copies of Entries purporting to be sealed or stamped with the Seal of the said General Register Office (which Seal it shall

shall not be necessary to prove) shall be admissible as Evidence in all Parts of Her Majesty's Dominions of the Birth or Death to which the same relates, without any further or other Proof of such Entry, and no certified Copy purporting to be given in the said Office shall be of any Force or Effect which is not sealed or stamped as aforesaid.

Registrar General may alter Forms.

6. It shall be lawful for the Registrar General, with the Consent of the Lord Lieutenant in Council, to alter the Forms annexed to this Act, regard being always had to the Objects and Purposes of this Act, and to rendering the same more effectual; and such Alterations of Forms shall be published in the Dublin Gazette, and shall thereupon be deemed to be the Forms required to be used by this Act, and shall within *Fourteen* Days after the same shall have been issued, be laid before both Houses of Parliament, or if Parliament shall not be then sitting within *Fourteen* Days after the Commencement of the then next Session.

Officers, Clerks, and Servants to be appointed.

7. It shall be lawful for the Lord Lieutenant (or the Registrar General, subject to the Approval of the Lord Lieutenant,) to appoint such and so many Officers, Clerks, and Servants as may from Time to Time be necessary for carrying on the Business of the General Register Office, and at pleasure to remove any of them: Provided always, that all Officers, Clerks, and Servants who may be employed in the Business of the General Register Office at the Time of the passing of this Act shall, if the Lord Lieutenant (or Registrar General, subject to the Approval of the Lord Lieutenant,) think fit, be employed in the Business of the General Register Office under this Act as if their original Appointment under the said Act of the Seventh and Eighth Years of Her Majesty had been made under the Authority of this Act.

Salary of Registrar General to be increased, and to include Remuneration for all public Duties performed by him.

8. Whereas the Registrar General of Marriages appointed under the said Act has been heretofore required by the Lord Lieutenant to superintend the taking of the Census in Ireland, and also the annual Collection of Agricultural Statistics, and to perform other public Duties from Time to Time, in addition to those he was required to perform under the said Act, for which Duties special Remuneration has been heretofore awarded to him, in addition to the Salary received by him under the said Act; and it is expedient that in respect of such Duties, and of the additional Duties he may be required to perform under this Act, or otherwise, he should be paid by Salary: Be it enacted, That so much of the said Act of the Seventh and Eighth Years of Her Majesty, Chapter Eighty-one, as enacts that the Salary of the Registrar General shall not at any Time exceed the Sum of Eight hundred Pounds yearly shall be repealed; and it shall

be lawful for the Commissioners of Her Majesty's Treasury to appoint from Time to Time the Salary of the said Registrar General, so that the same shall not at any Time exceed the Sum of *One thousand Pounds.*

Salaries to be paid out of Monies provided by Parliament.

9. The Salaries of the Officers, Clerks, and Servants, and all such Salaries and all other Expenses of carrying this Act into execution not herein otherwise provided for, shall be paid out of any Monies which may from Time to Time be provided by Parliament for that Purpose; and the Salary so to be appointed for the said Registrar General shall be deemed to include the Remuneration for all Duties which the said Registrar General is now or may hereafter be appointed or required to perform.

Assistant Registrar General may be appointed.

10. The Registrar General shall have Power, subject to the Approval of the Lord Lieutenant, to appoint by Writing under his Hand a fit Person to act as his Assistant in case of the Illness or Absence of the Registrar General; and every such Assistant, while so acting, shall have all the Powers and Duties of the Registrar General, and be subject to all the Provisions and Penalties declared by the said Act and this Act, except that such Assistant shall not have Power to make or declare any General Rule, or to rescind or alter any Order, Regulation, or Approval signified by the Registrar General or made by the Registrar General in Writing under his Hand, or to dismiss any Person from any Office holden during the Pleasure of the Registrar General.

Regulations to be made for Management of Office and Duties of Officers.

11. The Lord Lieutenant, or the Registrar General, with his Approbation, shall and may from Time to Time make Regulations for the Management of the General Register Office, and for the Discharge of the Duties of the Registrar General, Officers, Clerks, and Servants of the said Office, and of the Superintendent Registrars and Registrars, and their Deputies herein-after mentioned, so that such Regulations be not contrary to the Provisions of this Act; and the Regulations so made and approved shall be binding on such Registrar General, Officers, Clerks, and Servants of the said Office, and on the Superintendent Registrars and Registrars, and their Deputies respectively.

Registrar General to furnish to Boards of Guardians Notices setting forth Acts required to be done under this Act.

12. The Registrar-General shall, in sufficient Time before the *Thirty-first Day of December One thousand eight hundred and sixty-three*, furnish to the Guardians of every Union printed Notices, which the said Guardians shall, on or before the said *Thirty-first Day of December*, cause to be fixed or placed on the Outside of the several Church and Chapel Doors, or other public and conspicuous Buildings or Places within their respective Unions, and which said Notices shall

shall specify the several Acts required to be done for the Purpose sf registering any Birth or Death, under the Provisions of this Act.

Fees received by Registrar General to be paid into Bank of Ireland to Credit of Exchequer.

13. All Fees received by or on account of the Registrar General under the Provisions of this Act shall be accounted for and paid by the Registrar General, at such Times as the said Commissioners of Her Majesty's Treasury shall from Time to Time direct, into the Bank of Ireland, to the Credit of Her Majesty's Exchequer.

Certain Appointments to be exempt from Stamp Duties.

14. The Appointments of Officers, Clerks, and Servants, and of Superintendent Registrars and Deputy Superintendent Registrars, and of Registrars and Deputy Registrars, under this Act, and the Duplicates and certified Copies of Registers, as herein-after mentioned, shall be exempt from all Stamp Duties, save and except as herein-after provided.

Supply of Books and Boxes.

Iron Boxes for Register Books to be provided.

15. The Commissioners of Her Majesty's Treasury shall cause to be furnished, upon the Application of the Registrar General, for the Use of the Registrars appointed under this Act a sufficient Number of strong Iron Boxes to hold the Register Books to be kept by each Registrar; and every such Box shall be furnished with a Lock and Two Keys and no more, and One of such Keys shall be kept by the Registrar and the other by the Superintendent Registrar appointed under this Act; and the Register Books of each District while in Custody of the Registrar and not in use shall be always kept in the Register Box, which shall always be left locked.

Register Books to be provided.

16. The Commissioners of Her Majesty's Treasury shall cause to be furnished, from Time to Time, from Her Majesty's Stationery Office, upon the Application of the Registrar General, all such Stationery, Books, Indexes, Certificates, Schedules, Notices, and Forms as shall be necessary in the Execution of this Act, as the said Registrar General shall require and direct; and the Register Books shall be of durable Materials, and in them shall be printed on each Side of every Leaf the Heads of Information herein required to be known and registered of Births and Deaths respectively; and every Page of each of such Books shall be numbered progressively from the Beginning to the End of the Book, beginning with Number One, and every Place of Entry shall be also numbered progressively from the Beginning to the End of the Book, beginning with Number One, and every Entry shall be divided from the following Entry by a printed Line; and the Registrar General shall furnish for the Use of the Registrars a sufficient Number of Register Books of Births and

Register Books of Deaths as may from Time to Time be required for the Purposes of this Act.

Part II.

Division of Districts.

Superintendent Registrar's District.

17. Every Union which shall have have been formed by the Poor Law Commissioners, under the Provisions of the Acts for the Relief of the Destitute Poor in Ireland, shall, from and after the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, be a Superintendent Registrar's District: Provided that in the event of any Alteration being thereafter made in the Boundaries of any of the said Unions, or in the event of the Registrar General considering it expedient for the better Execution of this Act, it shall be lawful for the Registrar General to make such Alterations in the Boundaries of any Superintendent Registrar's District under this Act as he may, subject to the Approval of the Lord Lieutenant, deem expedient and proper.

Registrar's Districts.

18. Each Dispensary District of a Poor Law Union shall, with the Approval of the Registrar General, be a Registrar's District for the Purposes of this Act; but it shall be lawful for the Registrar General to subdivide any such Dispensary District into Two or more Registrars Districts if he shall think fit to do so, and every such Registrar's District shall be called by a distinct Name. In the event of any Alteration being made in the Boundaries of any such Dispensary District, or in the event of the Registrar General considering it expedient for the better Execution of this Act, it shall be lawful for the Registrar General to make such Alterations in the Boundaries of any Registrar's District as he may, subject to the Approval of the Lord Lieutenant, deem expedient and proper.

Alterations of Districts to be published.

19. The Superintendent Registrar's and Registrar's Districts of each Union, and every Alteration of any such Districts, shall be published by the Registrar General within the Union and elsewhere, as may be deemed necessary, in such Manner as the Registrar General shall think proper.

Register Office.

Register Office to be provided by Guardians.

20. The Guardians of each Union shall provide and uphold, out of the Monies coming into their Hands or Control as such Guardians, a Register Office, according to a Plan to be approved by the Registrar General, for preserving the Registers to be deposited therein as herein-after provided; and the Care of the said Office and the Custody

Custody of the Registers deposited therein shall be given to the Superintendent Registrar of the District.

Guardians may borrow Money for providing Register Offices.

21. The Boards of Guardians may borrow Money for the Purpose of providing such Register Office, and may charge the Amount of the Sum borrowed on the future Rates of the Union of which they are Guardians, in the Manner provided by the Acts for the Relief of the Poor in Ireland with respect to Money borrowed under the Provisions of the said Acts.

Superintendent Registrars and Registrars.

Appointment of Superintendent Registrar.

22. The Clerk of the Union for the Time being shall, if he shall think fit to accept such Office, and have such Qualifications as the Registrar General may by any general Rule declare to be necessary, be the Superintendent Registrar thereof. In the event of his Refusal or Disqualification to act in that Capacity, the Guardians of the Union shall appoint a Person with such Qualifications as the Registrar General may by any general Rule declare to be necessary, to be the Superintendent Registrar. Every Superintendent Registrar shall hold his Office during the Pleasure of the Registrar General.

Appointment of Registrars.

23. The Medical Officer for the Time being of each Dispensary District not subdivided as aforesaid shall, if he shall think fit to accept such Office, and have such Qualifications as the Registrar General may by any general Rule declare to be necessary, be the Registrar of the said District. In the event of his Refusal or Disqualification to act in that Capacity, the Guardians of the Union in which such Dispensary District is situate shall appoint a Person with such Qualifications as the Registrar General may by any general Rule declare to be necessary, to be the Registrar of such District. In any Case in which there are Two Medical Officers in One Dispensary District, the Guardians shall appoint One of such Medical Officers, qualified as aforesaid, to be the Registrar of such District; and in case the Registrar General shall subdivide the Dispensary District into Two or more Districts, the Guardians shall appoint Registrars, qualified as aforesaid, for such Districts, Preference being given to the Medical Officer or Medical Officers, as the Case may be, of the Dispensary District. Every Registrar shall hold his Office during the Pleasure of the Registrar General.

Officers of Unions and Dispensary Medical Officers ceasing to hold their

24. In every Case in which any Clerk of a Union or any Medical Officer of a Dispensary District shall hold Office under this Act and shall cease to be a Clerk of the Union or Medical Officer of the Dispensary District, he shall cease to hold his Office under this Act in such Union or District. In every such Case and in every Case in

Offices to cease to act under this Act.

in which any Superintendent Registrar or Registrar shall be removed by the Registrar General from his Office under this Act, Notice thereof shall be forthwith given by Advertisement in some Newspaper circulating in the County or Counties wherein the District for which such Officer may act shall be, and every such Person shall thenceforth cease to hold his Office under this Act in such District.

If Guardians neglect to appoint Superintendent Registrars and Registrars, Lord Lieutenant to appoint them.

25. In every Case in which the Clerk of Union or the Medical Officer shall not think fit or shall be disqualified to accept the Office of Superintendent Registrar or Registrar, and the Guardians shall refuse or Neglect, during *Fourteen* Days after being required so to do by the Registrar General, to appoint a Superintendent Registrar or Registrar properly qualified, and in every Case of Vacancy of the Office of Superintendent Registrar or Registrar in any District in which the Guardians shall refuse or neglect, during *Fourteen* Days after such Vacancy, to appoint a Superintendent Registrar or Registrar properly qualified, the Appointment shall be made by the Lord Lieutenant.

Deputy Registrars to be appointed.

26. Every Superintendent Registrar and Registrar shall, subject to the Approval of the Registrar General, appoint by Writing under his Hand a fit Person to act as his Deputy in case of the Illness or unavoidable Absence of such Superintendent Registrar or Registrar; and every such Deputy, while so acting, shall have all the Powers and Duties, and be subject to all the Penalties herein declared concerning Superintendent Registrars and Registrars respectively; and in case of the Death or Resignation of the Superintendent Registrar or Registrar as the Case may be, shall act as Superintendent Registrar or Registrar until another Superintendent Registrar or Registrar is appointed; and every Superintendent Registrar or Registrar shall be civilly responsible for the Acts and Omissions of his Deputy.

Books, &c. to be transferred on Death or Removal of Superintendent Registrar or Registrar.

27. In every Case in which any Superintendent Registrar or Registrar shall die, or be removed from or otherwise cease to hold his Office, all Register Boxes, Keys, Books, Documents, and Papers in his Possession as such Superintendent Registrar or Registrar, or which shall come into the Possession of his Representatives, shall be given up as soon as conveniently may be to his Successor in Office. If any Person shall refuse to give up any such Box, Key, Book, Document, or Paper in such Case as aforesaid, it shall be lawful for any Justice of the Peace for the County or other Jurisdiction where such Person shall be or reside, upon Application made for that Purpose, to issue a Warrant under his Hand and Seal for bringing such Person before any Two Justices of the Peace for the said County or other Jurisdiction; and

and upon such Person appearing or not being found it shall be lawful for such Justices to hear and determine the Matter in a summary Way; and if it shall appear to the Justices that any such Box, Key, Book, Document, or Paper is in the Custody or Power of any such Person, and that he has refused or wilfully neglected to deliver the same to the Person in whose Custody the same ought to be, the said Justices shall commit such Offender to the Common Gaol or House of Correction for the said County or Jurisdiction, there to remain without Bail until he shall have delivered up the same, or until Satisfaction shall have been given in respect thereof, and the said Justices may grant a Warrant to search for any such Box, Key, Book, Document, or Paper, as in the Case of stolen Goods, in any Dwelling House or other Premises in which any credible Witness shall prove upon Oath before them that there is reasonable Cause to suspect the same to be; and the same when found shall be delivered to the Person in whose Custody it ought to be.

Superintendent Registrars and Registrars to reside in their Districts.

28. Every Superintendent Registrar and his Deputy, and every Registrar and his Deputy, shall reside or have a known Place of Business within the District for which he is appointed, and shall cause his Name, with the Addition of Superintendent Registrar or Registrar of Births and Deaths, or Deputy Superintendent Registrar, or Deputy Registrar of Births and Deaths (as the Case may be), for the District for which he is so appointed, to be placed on some conspicuous Place on or near the outer Door of his Dwelling House, or known Place of Business; and every Superintendent Registrar shall cause to be printed and published in his District, a List of the Names and Places of Abode or known Places of Business of every Registrar of Births and Deaths under his Superintendence, and also his own Name and Place of Abode or known Place of Business.

Exemption of Superintendent Registrar and Registrar from serving on Juries, &c.

29. Every Superintendent Registrar and Registrar appointed under the Provisions of this Act shall be freed and exempted from serving on any Jury or Inquest, and from every Parochial and Corporate Office whatever.

Part III.

Registration of Births and Deaths.

Registrar to learn and register Births and Deaths.

30. Every Registrar shall, subject to the Regulations to be made under this Act, be and he is hereby authorized and required to inform himself carefully of every Birth and Death which shall happen within his District after the *Thirty-first Day of December One*

thousand eight hundred and sixty-three, and to learn and register as soon after the Event as conveniently may be done, and without Fee or Reward, save as herein provided, in One of the said Register Books, the Particulars required to be registered, according to the Forms (A.) and (B.) hereunto annexed respectively touching every such Birth or every such Death, as the Case may be, every such Entry being made in order from the Beginning to the End of the Book.

Parents and others required to give Notice of Births within Twenty-one Days and Information within Three Months.

31. The Parents or Parent of any Child born in Ireland after the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, or, in case of the Death or Inability of the Parents or Parent, the Occupier of the House or Tenement in which to his or her Knowledge such Child was born, or the Nurse or any Person present at the Birth of such Child, shall, at any Time within *Twenty-one* Days next after the Day of such Birth, give Notice thereof to the Registrar of the District within which such Child shall have been born; and such Parents and Persons above specified whether they have given such Notice or not, shall, upon being required personally or by written Requisition of the Registrar, within *Three* Months after the Date of such Birth, attend personally at some Dispensary Station or Vaccination Station within the Registrar's District, or otherwise at the Place of Residence of such Parents or Person, and give Information to the Registrar of the District in which such Birth occurred, according to the best of his or her Knowledge and Belief, of the several Particulars by the said Form (A.) required to be registered touching the Birth of such Child, and shall sign the Register in the Presence of the Registrar.

As to Registry after the Expiration of Three Months from Birth.

32. After the Expiration of *Three* Months following the Birth of any Child it shall not be lawful for any Registrar to register such Birth, save as herein-after provided; that is to say, in case the Birth of any Child shall not have been registered according to the Provisions herein-before contained, it shall be lawful for any Person present at the Birth of such Child, or for the Father or Mother or Guardian thereof, at any Time within *Six* Calendar Months next after the Birth of such Child, to make before the Superintendent Registrar a Declaration in Writing of the Particulars required to be known touching the Birth of such Child, according to the best of his or her Knowledge and Belief, which Declaration the said Superintendent Registrar is hereby authorized to take, and it shall thereupon be lawful for the said Registrar, then and there in the Presence of the Superintendent Registrar, to register the Birth of such Child, according to the Information of the Person making the said Declaration; and the Superintendent Registrar before whom the said Declaration is made

[4] shall

shall sign the Entry of the Birth as well as the Registrar; and for every such Registry as last aforesaid the Superintendent Registrar shall be entitled to receive a Fee of *Two Shillings and Sixpence* from the Person requiring the same to be registered, and the Registrar, over and above the Fee in this Act authorized to be taken in respect of every Birth registered by him, shall be entitled, unless the Delay shall have been occasioned by his Default, to take a Fee of *Two Shillings and Sixpence* from the Person requiring the same to be registered; and no Register of Birth shall be given in Evidence to prove the Birth of any Child whenever it shall appear that more than *Three* Calendar Months have intervened between the Day of the Birth and the Day of the Registration of the Birth of such Child (except in the Case of a Child born at Sea or in a Foreign Country), unless the Entry shall be signed by the Superintendent Registrar as well as by the Registrar.

Births not to be registered after Six Months.

33. After the Expiration of *Six* Months following the Birth of any Child it shall not be lawful for any Registrar to Register the Birth of such Child, and no Register of Births, except in the Case of Children Born at Sea or in a Foreign Country, shall be given in Evidence to prove the Birth of any Child wherein it shall appear that *Six* Calendar Months have intervened between the Day of the Birth and the Day of the Registration of the Birth of such Child.

Name given in Baptism may be registered within Six Months after Registration of Birth.

34. If any Child born in Ireland whose Birth shall have been registered as aforesaid shall within *Six* Calendar Months next after the Registration of such Birth have any Name given to it in Baptism, the Parent or Guardian of such Child, or other Person procuring such Name to be given, may, within *Seven Days* next after such Baptism, procure and deliver to the Registrar or Superintendent Registrar of the District in whose Custody the Register of the Birth of the Child may then happen to be, a Certificate, according to the Form (C.) to this Act annexed, or to the like Effect, signed by the Clergyman, Minister, or officiating Person who shall have performed the Rite of Baptism, which Certificate he is hereby required to deliver immediately after the Baptism whenever the same shall be then demanded, on Payment of the Fee of *One Shilling*, which he shall be entitled to receive for the same; and the said Registrar or Superintendent Registrar, upon Receipt of such Certificate, and on Payment of the Fee of *One Shilling*, which he shall be entitled to receive for the same, shall, without any Erasure of the original Entry, forthwith register therein that the Child was baptized by such Name and also the Date of the Registry of such Baptismal Name; and the said Registrar or Superintendent Registrar shall thereupon certify upon the said Certificate the additional Entry so made, and shall forthwith send the said

Certificate through the Post Office to the Registrar General; and whenever a Baptismal Name shall have been added to an Entry of Birth subsequently to the Transmission to the General Register Office of the Return of certified Copies containing such Entry, a duly certified Copy of such Entry, containing the Baptismal Name and the Date of such Entry, shall in like Manner be sent to the Registrar General, who shall cause the same to be duly entered in the Register without any Erasure of the original Entry.

Persons present at Death and others required to give Notice within *Seven* Days, and Information within *Fourteen* Days.

35. Some Person present at the Death or in attendance during the last Illness of any Person dying in Ireland after the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, or the Occupier of the House or Tenement in which such Death took place, or if the Occupier be the Person who shall have died, then some One or more of the Persons residing in the House in which such Death took place, shall, within *Seven* Days next after the Day of such Death, give Notice of such Death to the Registrar of the District in which such Death occurred; and such Persons as aforesaid, or if such Death shall not have taken place within a House, then any Person present at such Death, or having a Knowledge of the Circumstances attending the same, shall, whether they have given such Notice or not, upon being required personally or by written Requisition of the Registrar, within *Fourteen* Days after the Date of such Death, attend personally at some Dispensary, District, or Vaccination Station within the Registrar's District, or otherwise at the Place of Residence of such Person, and give Information to the Registrar of the District in which such Death occurred, according to the best of his or her Knowledge and Belief, of the several Particulars required by the said Form (B.) to be registered touching such Death, and shall sign the Registry in the Presence of the Registrar.

Notice to be given of the finding of any new-born Child or dead Body.

36. In case any Person shall, after the *Thirty-first day of December One thousand eight hundred and sixty-three*, find exposed any new-born Child, or any dead Body, the Person first having Charge of such Child in the Case of the new-born Child, and the Coroner in case of the dead Body, shall forthwith give Notice of the Finding of the same and of the Place where the same was found to the Registrar of the District in which the same shall have been found; and the Registrar shall register, after proper Inquiry, all the several Particulars required to be known and registered, touching the said Birth or Death, or so much and so many of the Particulars as shall have been ascertained.

Registrar to make Entry of Finding

37. In every Case in which an Inquest shall be held on any dead Body after the said *Thirty-first Day of December One thousand eight hundred*

hundred and sixty-three the Jury shall inquire of the Particulars herein required to be registered concerning the Death, and the Coroner shall communicate the Finding of the Jury in Writing under his Hand to the Registrar, and the Registrar shall make the Entry accordingly; provided that the Coroner shall not be required to sign the Register as Informant; but the Registrar shall state in the Entry of such Death that the Information was received from the Coroner, and shall transmit all such Informations to the Superintendent Registrar, who shall send the same to the Registrar General, who shall preserve such Informations with the Records of his Office.

of Jury upon Coroner's Inquest.

38. If any Child of an Irish Parent shall be born at Sea after the *Thirty-first Day of December One thousand eight hundred and sixty-three*, on board of a British Vessel, the Captain or Commanding Officer of such Vessel shall forthwith make a Minute in the Log Book or otherwise of the several Particulars hereby required to be registered touching the Birth of such Child, so far as the same may be known, and of the Name of the Vessel in which the Birth took place, and shall, on the Arrival of such Vessel in any Port of the United Kingdom, or by any other earlier Opportunity, send a certified Copy of such Minute through the Post Office to the Registrar General in Dublin, who shall file the same, and shall cause a true and correct Copy thereof, verified by his own Signature, to be entered in a Book to be kept for that Purpose in the General Register Office, to be called the "Marine Register Book of Births," and the Registrar General shall keep such Book with the other Registers according to the Provisions of this Act.

Register of Children born at Sea.

39. If any of Her Majesty's Irish Subjects shall die at Sea on board of a British Vessel after the said *Thirty-first Day of December One thousand eight hundred and sixty-three*, the Captain or Commanding Officer of the Vessel on board of which such Death shall have happened shall forthwith make a Minute in the Log Book or otherwise of the several Particulars herein required to be inserted in the Register touching such Death, so far as the same may be known, and of the Name of the Vessel wherein such Death took place, and shall, on the Arrival of such Vessel in any Port of the United Kingdom, or by any other earlier Opportunity, send a certified Copy of such Minute through the Post Office to the Registrar General in Dublin, who shall file the same, and shall cause a true and correct Copy thereof to be entered in a Book to be kept for that Purpose in the General Register Office, to be called the "Marine Register Book of Deaths," and the Registrar General shall keep such Book with the other Registers according to the Provisions of this Act.

Register of Persons dying at Sea.

Register of Birth and Death of Irish Subjects occurring in Foreign Countries.

40. The Birth of any Child of Irish Parents, or the Death of any Person born in Ireland which shall take place in any Foreign Country, if intimated to the Registrar General within *Twelve* Months after the Date thereof, in accordance, as near as may be, with the Forms prescribed in Forms (A.) and (B.) to this Act annexed, and duly certified by the British Consul of the Country or District within which such Birth or Death shall have taken place, shall be entered in a Book to be kept for the Purpose in the General Register Office, to be called "The Foreign Register;" and all such Intimations shall be filed and the relative Entries verified by the Signature of the Registrar General.

Register to be signed by the Informant.

41. Every Person by whom the Information contained in any Register of Birth or Death under this Act shall have been given, except in the Case of such Information being given by the Coroner, or by the Captain or Commanding Officer of a Vessel at Sea, or in the Case of a Person born or dying in any Foreign Country, as herein-before provided, shall sign his Name, Qualification, and Place of Abode in the Register; and, except as aforesaid, no Register of Birth or Death according to this Act shall be given in Evidence which shall not be signed by some Person professing to be the Informant, and to be the Person or One of the Persons required by this Act to give such Information to the Registrar.

Persons may sign by a Mark before the Registrar.

42. In case of the Inability to write of any Person whose Signature is required or necessary under this Act, it shall be lawful for such Person to adhibit, in the Presence of the Registrar, a Cross or other Mark, who shall annex the Designation of such Person to such Cross or other Mark; and such Cross or other Mark shall be in all respects as binding and effectual as the Signature of such Person if capable of writing would have been.

Correction of erroneous Entries.

43. If any Error shall be discovered to have been committed in the Entry of any Birth or Death in any Register the Person discovering the same shall forthwith give Information thereof to the Justice or Justices presiding at the Petty Sessions of the District within which such Birth or Death shall have occurred, or if within the Dublin Metropolitan Police District to a divisional Justice or Justices within the said District; and it shall be lawful for the said Justice or Justices, and they are hereby authorized and required thereupon or upon otherwise coming to the Knowledge of such erroneous Entry, to summons before them the Person who made and any Person concerned in making such erroneous Entry or having any Knowledge regarding the same, and also any Person interested in the Effect of such erroneous Entry, and to examine all such Persons on Oath; and if the said Justice or Justices shall be satisfied that any Error has been committed

committed in any such Entry such Justice or Justices shall, by Authority in Writing under his or their Hands, direct the Registrar to correct the erroneous Entry; and it shall be lawful for the Registrar, and he is hereby required thereupon, to correct the erroneous Entry according to the Truth of the Case by Entry in the Margin without any Alteration of the original Entry; and such marginal Entry shall contain a Reference to the Deposition upon which the said Justice or Justices directed the Correction to be made, and shall be dated on the Day on which it is made, and signed by the Parties applying for the Correction and by the Registrar; and in every Case the Registrar shall make the like Alteration in the certified Copy of the Register Book, to be made by him as herein-after provided; provided that in case such certified Copy shall have been already made, he shall make and deliver in like Manner a separate certified Copy of the original erroneous Entry and of the marginal Correction therein made.

Registers of Baptisms and Burials may be kept as heretofore.

44. Nothing herein contained shall affect the Registry of Baptisms or Burials as now by Law established or the Right of any officiating Minister to receive the Fees now usually paid for the Performance or Registration of any Baptism or Burial.

Part IV.

Medical Certificate of Death.

Medical Attendant to transmit Certificate of Death to Registrar.

45. Whereas it is expedient to establish on reliable Information, for sanitary and scientific Purposes, a Registration of the Causes of Death: Be it therefore enacted, The Registrar shall furnish from Time to Time, gratis, to every duly qualified Medical Practitioner within his District the necessary Forms of Certificates of Deaths in the Form (D.) hereunto annexed, which Certificates the Registrar General shall cause to be printed and forwarded from Time to Time to every Registrar for that Purpose; and the Medical Practitioner who shall have been in attendance during the last Illness and until the Death of any Person dying after the said *Thirty-first Day of December One thousand eight hundred and sixty-three* shall, within *Seven* Days after the Death of such Person, transmit to the Registrar of the District in which the Death occurred a Certificate of the Cause of Death in the Form mentioned, the Particulars of which shall be entered by the Registrar in the Register: In case such Certificate shall not be so transmitted, the Registrar shall transmit to such Medical Practitioner a Form of such Certificate, and by a written or printed Requisition under his Hand shall require such Medical Practitioner forthwith to return to him such Certificate duly filled up, and such Medical Practitioner shall, within *Three* Days after the Receipt thereof, return such Certificate duly filled up to such Registrar.

Part V.

Returns.

Certified Copies of Registers of Births and Deaths to be sent quarterly, and the Register Books, when filled, to the Superintendent Registrar.

46. In the Months of *April*, *July*, *October*, and *January*, on such Days as shall from Time to Time be appointed by the Registrar General, every Registrar shall make and deliver to the Superintendent Registrar of his District, on durable Materials, a true Copy, certified by him under his Hand, according to the Form (E.) to this Act annexed, of all the Entries of Births and Deaths made during the Quarter of a Year last preceding the *First* Day of each of the several Months herein-before mentioned respectively, in the Register Books kept by him, the first of such certified Copies to be given in the *Month of April in the Year One thousand eight hundred and sixty-four*, and the Superintendent Registrar shall examine the same, and if found to be correct shall certify the same under his Hand to be a true Copy: If there shall have been no Birth or Death registered since the Delivery of the last Certificate, the Registrar shall certify the Fact, and such Certificate shall be delivered to the Superintendent Registrar as aforesaid, and be countersigned by him: The Registrar shall keep safely each of the Register Books furnished to him as herein-before mentioned until it shall be filled, and shall then deliver it to the Superintendent Registrar to be kept by him with the Records of his Office.

Superintendent Registrars to send certified Copies of Registers of Births and Deaths to Registrar General.

47. Every Superintendent Registrar shall *Four* Times in every Year, on such Days as shall be named for the Purpose by the Registrar General, send to the Registrar General all the certified Copies of the Registers of Births and Deaths which he shall have received from the Registrars of Births and Deaths as aforesaid for the Quarter of a Year last preceding the *First* Day of each of the several Months herein-before mentioned respectively; and the Registrar General, if it shall appear by Interruption of the regular Progression of Numbers or otherwise that the Copy of any Part of any Book has not been duly delivered to him, shall procure, as far as possible, consistently with the Provisions of this Act, that the same may be remedied and supplied; the certified Copies so sent to the General Register Office shall be thereafter kept in the said Office in such Order and Manner as the Registrar General, under the Direction of the Lord Lieutenant, shall think fit, so that the same may be most readily seen and examined.

Abstract of Registers to be laid annually before Parliament.

48. The Registrar General shall once in every Year transmit to the Lord Lieutenant a General Abstract of the Numbers of Births and Deaths registered during the foregoing Year in such Form and at such Date as the Lord Lieutenant shall from Time to Time prescribe; and every

every such annual General Abstract shall be laid before Parliament within *One Month* after Receipt thereof, or, if Parliament shall not be then sitting, within *One Month* after the Commencement of the next Session.

Indexes to be kept at General Register Office; Searches allowed and certified Copies given.

49. The Registrar General shall cause Indexes of all the Registers herein mentioned to be made and kept in the General Register Office; and every Person shall be entitled to search the said Indexes between the Hours of *Ten* in the Morning and *Four* in the Afternoon of every Day, except Sundays, Christmas Day, and Good Friday, and to have a certified Copy of any Entry in the said Registers; and for every general Search of the said Indexes the Sum of *Twenty Shillings*, and for every particular Search the Sum of *One Shilling*, and for every such certified Copy the Sum of *Two Shillings and Sixpence* shall be paid to the Registrar General or such other Officer as shall be appointed to receive such Fees on his Account, in addition to the Stamp Duty of One Penny imposed by an Act passed in the Twenty-third Year of Her Majesty, Chapter Fifteen.

Indexes to be made at every Superintendent Registrar's Office, and Persons allowed to search them.

50. Every Superintendent Registrar shall cause Indexes of the Register Books in his Office to be made and kept with the other Records of his Office: Every Person shall be entitled on such Days and at such reasonable Hours as shall be directed by the Registrar General to search the said Indexes, and to have a certified Copy of any Entry or Entries in the said Register Books, under the Hand of the Superintendent Registrar, on Payment of the Fees herein-after mentioned; that is to say, for every general Search the Sum of *Five Shillings*, and for every particular Search the Sum of *One Shilling*, and for every certified Copy the Sum of *Two Shillings and Sixpence*, in addition to the Stamp Duty of One Penny imposed by an Act passed in the Twenty-third Year of Her Majesty, Chapter Fifteen.

Fees.

Superintendent Registrars to be paid for the certified Copies sent to General Register Office.

51. Every Superintendent Registrar shall make out an Account *Four* Times in every Year, on such Days and for such Periods as shall from Time to Time be appointed by the Registrar General, of the Number of Entries in such certified Copies so sent by him to the Registrar General as provided by this Act, and shall send the said Account to the Registrar General: If on Examination and Comparison with the certified Copies of the Registers or Certificates received by the Registrar General such Account shall be found correct, the Superintendent Registrar shall be entitled to receive *Twopence* from the Registrar General for every Entry in such certified Copies of Registers of Births and Deaths.

 52. Every

Registrars to make out Accounts quarterly.

52. Every Registrar shall make out an Account *Four* Times in every Year, on such Days and for such Periods, as shall from Time to Time be appointed by the Registrar General, of the Number of Births and Deaths which he shall have registered in pursuance of the Provisions of this Act, and the Superintendent Registrar shall verify and sign the same: The Guardians of the Union in which he shall be Registrar, on production of the said Account so verified and signed, shall pay to the said Registrar out of the Monies in their Hands or Power as such Guardians at the Rate of *One Shilling* for every Entry of Birth or Death included in such Account, and the same shall be charged to the Union at large.

Part VI.

Penalties.

Penalty for wilfully giving false Information.

53. Every Person who shall wilfully make or cause to be made, for the Purpose of being inserted in any Register of Birth or Death, any false Statement touching any of the Particulars herein required to be known and registered shall be subject to the same Pains and Penalties as if he were guilty of Perjury.

Penalty for destroying or falsifying Register Books.

54. The Thirty-sixth and Thirty-seventh Sections of an Act passed in the Twenty-fourth and Twenty-fifth Years of Her Majesty, intituled "An Act to consolidate and amend the Statute Law of "England and Ireland relating to indictable Offences by Forgery," shall be incorporated with and form Part of this Act.

Penalty for not duly registering Births or Deaths, or for losing or injuring Registers.

55. Every Registrar who shall refuse or without reasonable Cause omit to register any Birth or Death of which he shall have had due Notice, or to make any Addition to or Alteration upon the Register in accordance with the Provisions of this Act, and every Person having the Custody of any Register Book or of any Part thereof who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his Keeping, shall forfeit a Sum not exceeding *Ten Pounds* for every such Offence.

Penalty for neglecting to send Register Books to Superintendent Registrar.

56. Every Person who under the Provisions of this Act is required to deliver the Registers of Births and Deaths, or Copies of such Registers, to any Superintendent Registrar or to the Registrar General, and who after being duly required to deliver such Registers or Copies as aforesaid shall refuse or during *One Calendar Month* neglect to do so, shall be liable for every such Offence to forfeit a Sum not exceeding *Ten Pounds*.

57. Any

57. Any Person who shall knowingly register or cause to be registered the Birth of any Child otherwise than is by this Act required after the Expiration of *Three* Calendar Months following the Day of the Birth of such Child, or who shall knowingly register or cause to be registered the Birth of any Child after the Expiration of *Six* Months following the Day of the Birth of such Child, except in the Case of Children born at Sea or in a Foreign Country, shall be liable for every such Offence to a Penalty not exceeding *Five Pounds.*

Penalty for improper Registry of Birth, after Six Months.

58. Any Person required by this Act who shall, within the Period specified by this Act, fail to give Notice of any Birth or Death to the Registrar of the District within which such Birth or Death shall have occured shall be liable to a Penalty not exceeding *Twenty Shillings.*

Penalty for failing to give Notice of Birth or Death.

59. Any Person required by this Act who shall, within the Period specified by this Act, fail to attend personally at the Place specified by the Registrar of the District within which such Birth or Death shall have occurred, and to give Information to such Registrar of the Particulars required by this Act to be registered touching such Birth or Death, or shall refuse to sign the Register in the Presence of the Registrar, shall be liable to a Penalty not exceeding *Forty Shillings.*

Penalty for failing to give Information to Registrar respecting Birth or Death, &c.

60. In the Case of finding exposed any New-born Child, or any Dead Body, any Person who shall be required by this Act to give Notice, and who shall not give Notice forthwith of finding thn same, and of the Place where the same was found, to the Registrar of the District in which the same shall have been found shall be liable to to a Penalty not exceeding *Twenty Shillings.*

Penalty for neglecting to give Notice to Registrar of finding new-born Child, or any Dead Body.

61. No Penalty imposed by this Act on Persons failing to give any Notice required by this Act shall be exacted, if any of the Persons so required shall have given such Notice; and whenever Notice is required to be given by this Act, the Person bound to give the Notice shall be held to have sufficiently discharged himself, if he shall have put into the Post Office, before the Expiration of the Period within which the Notice is required to be given, a Letter addressed to the Person to whom and containing the Particulars of which the Notice is required to be given.

Penalties not exigible if Notice given.

Notices may be given by Post.

62. No Penalty shall be exacted in any Case when it shall appear to the Satisfaction of the Justice or Justices that the Person failing to

No Penalty where Failure not wilful.

to comply with the Provisions of this Act, in relation to the giving Notices or Information under the same, has not wilfully been guilty of such Failure, but that such Failure has been occasioned by unavoidable Accident, or by Circumstances over which he had no Control, and where he had used every reasonable Endeavour towards Compliance with such Provisions.

Penalties, how recoverable.

63. Any Penalty recoverable under the Provisions of this Act, shall be recoverable in a summary Way, with respect to the Police District of Dublin Metropolis, subject and according to the Provisions of any Act regulating the Powers and Duties of Justices of the Peace for such District, or of the Police of such District, and, with respect to other Parts of Ireland, before a Justice or Justices of the Peace sitting in Petty Sessions, subject and according to the Provisions of "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

14 & 15 Vict. c. 93.

FORMS

FORMS to which the foregoing Act refers.

FORM (A.)

BIRTHS registered in the District of [ ] in the Union of [ ] in the County of [ ].

No.	Date and Place of Birth.	Name (if any).	Sex.	Name and Surname and Dwelling Place of Father.	Name and Surname and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Qualification, and Residence of Informant.	When registered.	Signature of Registrar.	Baptismal Name, if added after Registration of Birth, and Date.
1	*6th January 1864. 15, George's Street.*	*John*	*Male*	*James Rea - 15, George's Street.*	*Sarah Rea, formerly Thompson* [if married more than once Surnames of former Husbands should be stated.]	*Carpenter -*	*James Rea, (Father), Carpenter, 15, George's Street, Kingstown.*	*10th January 1864.*	*John Cox.* REGISTRAR.	*Robert.* *15th February 1864.*

The Words and Figures in *Italics* to be filled in according to the Facts.

FORM (B.)

DEATHS registered in the District of [ ] in the Union of [ ] in the County of [ ].

No.	Date and Place of Death.	Name and Surname.	Sex.	Condition.	Age last Birthday.	Rank, Profession, or Occupation.	Certified Cause of Death and Duration of Illness.	Signature, Qualification, and Residence of Informant.	When registered.	Signature of Registrar.
1	*24th January 1864, 19, High Street, Kingstown.*	*James Green*	*Male*	*Married, Bachelor, or Widower* (as the Case may be).	*73 Years*	*Carpenter* -	*Pneumonia, Two Months, certified.*	*Sarah Green, Widow, High Street, present at the Death.*	*25th January 1864.*	*John Cox.* REGISTRAR.

The Words and Figures in *Italics* to be filled in according to the Facts.

FORM

FORM (C.)

I of do hereby certify, That I have this Day baptized, by the Name of a [*state the Sex*] Child produced to me by as the Child of *A.B.* and *C.D.* of , and declared by the said to have been born at in the County of on the Day of One thousand eight hundred and .

Witness my Hand this Day of One thousand eight hundred and .

FORM (D.)

To the Registrar of the District of in the Union of , in the County of .

I hereby certify, That I attended , who was apparently aged or was stated to be aged Years; that I last saw him [*or* her] on the Day of 186 ; that he [*or* she] died on the Day of 186 at ; that the Cause of his [*or* her] Death was ; and that the Disease had continued .

Witness my Hand this Day of One thousand eight hundred and .

(Signed)
Profession.
Residence.

FORM (E.)

I , Registrar of Births and Deaths in the District of in the Union of , in the County of , do hereby certify, That this is a true Copy of the Registrar's Book of Births [*or* Deaths] within the said District from the Entry of the Birth [*or* Death] of , No. , to the Entry of the Birth [*or* Death] of , No. .

Witness my Hand this Day of 18 .
, Registrar.

[The Words in *Italics* and the Blanks for Words and Figures in the above Forms to be filled in as the Case may be.]

Births and Deaths Registration (Ireland).

A

BILL

For the Registration of Births and Deaths in Ireland.

(*Prepared and brought in by Sir Robert Peel, Sir George Grey, and Mr. Cardwell.*)

Ordered, by The House of Commons, *to be Printed*, 9 *February* 1863.

[Bill 9.]

Under 4 *oz.*

A

BILL

TO

Amend the Act for placing the Employment of Women, young Persons, and Children in Bleaching Works and Dyeing Works under the Regulations of the Factories Acts.

WHEREAS it is expedient that the Employment of Women, young Persons, and Children in Calendering Works and Finishing Works should be regulated in the same Manner as their Employment is regulated in Bleaching Works and Dyeing Works by the Provisions of the Act of the Twenty-third and Twenty-fourth Years of Victoria, Chapter Seventy-eight: And whereas such was the Intention of Parliament in passing that Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same: Preamble.

1. That the Words "Bleaching Works" and "Dyeing Works" in the said recited Act shall be further understood to mean any Building, Buildings, or Premises in which Females, young Persons, and Children are employed, and in any Part of which Buildings or Premises any Process previous to packing is carried on in the Occupation of calendering or finishing of any Yarn or Cloth of Cotton, Wool, Silk, or Interpretation of Words "Bleaching Works" and "Dyeing Works" in recited Act.

or Flax, or any of them, or any Mixture of them, or any Yarn or Cloth of any other Material or Materials, or in any Process incident to such calendering or finishing, and in One or more of which Processes Steam, Water, or other mechanical Power is used or employed: Provided always, that nothing in this Act contained shall extend to any Building, Buildings, or Premises defined to be a "Factory" by the Act of the Seventh Year of Her present Majesty, intituled "An "Act to amend the Laws relating to Labour in Factories."

4 *March* 1863. 26 Vict.

A

BILL

TO

Define and render uniform the Mode of measuring the Residence required for Electors in Cities and Boroughs.

Preamble.

WHEREAS certain Persons are entitled to be registered as Parliamentary Electors provided they have resided within Seven Miles from any Part, and certain others provided they have resided within Seven Miles from some particular Part, of the City, Borough, or Place sharing in any City or Borough Election in respect of which they are entitled to be registered: And whereas it is expedient to define and render uniform the Mode of measuring the Seven Miles prescribed by Statute: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Measurement from Boundary.

1. Seven Miles to be measured in all Cases from Boundary of Borough.

2. Any

As to Registration of Elector.

2. Any Person entitled to be registered as a Parliamentary Elector for any City, Borough, or Place sharing in any City or Borough Election, provided he has resided within Seven Miles from some particular Part of such City, Borough, or Place, shall be entitled to be so registered provided he has resided within Seven Miles from any Part of such City, Borough, or Place.

13 *March* 1863. 26 Vict.

A

BILL

TO

Define and render uniform the Mode of measuring the Residence required for Electors in Cities and Boroughs.

Preamble.

WHEREAS certain Persons are entitled to be registered as Parliamentary Electors provided they have resided within Seven Miles from any Part, and certain other Persons provided they have resided within Seven Miles from some particular Part, of the City, Borough, or Place sharing in any City or Borough Election in respect of which they are entitled to be registered: And whereas it is expedient to define and render uniform the ode of measuring the Seven Miles prescribed by Statute: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Residence to be measured in all Cases from the Boundary.

1. Any Person entitled to be registered as a Parliamentary Elector for any City, Borough, or Place sharing in any City or Borough Election, provided he has resided within Seven Miles from some particular Part of such City, Borough, or Place, shall be entitled to be so registered provided he has resided within Seven Miles from any Part of such City, Borough, or Place.

[Bill 60.]

A

B I L L

INTITULED

An Act to define the Boundaries of the Colony of British Columbia, and to continue an Act to provide for the Government of the said Colony.

Preamble.

WHEREAS it is desirable to amend and continue an Act passed in the Twenty-first and Twenty-second Year of Her Majesty, Chapter Ninety-nine, intituled "An Act to "provide for the Government of British Columbia:" Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Repeal of 1st Section of 21 & 22 Vict. c. 99.

1. The First Section of the aforesaid Act is repealed.

Continuation of remaining Sections of Act.

2. The remaining Sections of the said Act shall continue in force till the Thirty-first Day of December One thousand eight hundred and sixty-three, and no longer, provided that the Expiration of the said Act shall not invalidate any Order in Council or other Instrument issued under Authority of the said Act, nor any Act done or Right or Title acquired by virtue of the said Act, nor affect the Right

of Appeal thereby given, nor revive any Acts or Parts of Acts of Parliament thereby repealed.

Boundaries of British Columbia.

3. British Columbia shall for the Purposes of the said Act, and for all other Purposes, be held to comprise all such Territories within the Dominions of Her Majesty as are bounded to the South by the Territories of the United States of America, to the West by the Pacific Ocean and the Frontier of the Russian Territories in North America, to the North by the Sixtieth Parallel of North Latitude, and to the East, from the Boundary of the United States Northwards, by the Rocky Mountains and the One hundred and twentieth Meridian of West Longitude, and shall include Queen Charlotte's Island and all other Islands adjacent to the said Territories, except Vancouver's Island and the Islands adjacent thereto.

Alteration of Boundaries.

4. It shall be lawful for Her Majesty, by Order in Council, to alter the said Boundaries to the North and East.

5 *March* 1863. 26 Vict.

A

BILL

TO

Make further Provision with respect to Burials in England and Wales.

Preamble.

WHEREAS it is expedient to amend the Laws relating to Burials in England and Wales in certain Cases: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Officiating Minister shall grant Permission for Burial without Service.

1. From and after the *passing of this Act* the Officiating Minister of the Church of England in each and every Parish in England and Wales, upon Application made to him in Writing by the Relative having the Conduct of the Funeral of any Person entitled to Burial in such Parish for Permission for the Burial to take place without any Service, shall grant such Permission, and shall appoint some convenient Hour for such Burial.

Officiating Minister may grant Permission to Minister not of the Church of England

2. The Officiating Minister of the Church of England in each and every Parish in England and Wales, upon Application made to him in Writing by the Relative having the Conduct of the Funeral of any Person entitled to Burial in such Parish, for Permission to have a Burial Service performed at the Grave of such deceased Person other

to perform Service.

other than that of the Church of England, may, if he think fit, give such Permission as aforesaid; provided that such Application shall be in Writing, and be signed by the Applicant, and that it state that the Deceased was not a Member of the Church of England, and to what Religious Denomination he belonged; also the Name of the Minister of the same Denomination who it is proposed should officiate at such Burial; also the Description of the Service which is intended to be used at such Burial, and the Day, and between what Hours of such Day, it is proposed that such Burial should be performed; provided that such Service, if not according to a published Ritual, consist only of Prayers, Hymns, or Extracts from Holy Scripture.

Mode of giving Permission.

Proceeding in case of Refusal.

3. The said Officiating Minister shall, within *Forty-eight* Hours after Delivery to him or at his Abode of such Application, give, under his Hand, his Consent or Refusal, on Demand, and, if he shall Consent shall appoint some convenient Hour for the Burial; but if such Permission as aforesaid be withheld, his Reasons for withholding the same shall, within *One Week*, be transmitted by the Officiating Minister to the Registrar of the Bishop of the Diocese in which such Burial Ground shall be situated, and shall be by him transmitted forthwith, signed by the Registrar of such Diocese, to Her Majesty's Principal Secretary of State for the Home Department.

Officiating Minister not to be liable to Censure or Penalties.

4. In any Case in which Permission has been asked or given under this Act, the said Minister shall not be liable to any Censure or Penalties, Ecclesiastical or Civil, for not using the Service of the Church of England.

Obstructing Burial deemed a Misdemeanor.

5. After such Permission granted, any Person or Persons disturbing or interrupting the Burial shall be deemed guilty of a Misdemeanor.

Extent of the Act.

6. So far as regards any Permission to use any Burial Service other than that of the Church of England, this Act shall not extend to the consecrated Part of any Public Cemetery containing both consecrated and unconsecrated Ground.

9 *June* 1863. 26 & 27 Vict.

A

BILL

TO

Provide proper and sufficient Accommodation for the Casual Poor in the Metropolis.

WHEREAS it is expedient to amend the Provisions of the Act of the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter One hundred and one, for the temporary Relief of poor Persons found destitute and without Lodging within the District of the Metropolitan Police or the City of London, and for avoiding the Introduction of infectious Disease by the Reception of such poor Persons into the Workhouses established for the ordinary Relief of the Poor within such Parishes or Places: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble. 7 & 8 Vict. c. 101.

1. The Forty-first Section of the recited Act, so far (and so far only) as that Section relates to Parishes or Unions or Parishes and Unions, any Part of which may be within the District of the Metropolitan Police or the City of London is hereby repealed.

Repealing Provision as to Asylum Districts in Metropolis.

2. From the *passing of this Act*, all Parishes or Unions or Parishes and Unions, any Part which may be within the District of the Metropolitan Police or the City of London, shall be and form One General

Metropolis constituted one General District for Asylums.

General District for the Purpose of providing and managing Asylums for the temporary Relief and setting to work therein of destitute houseless Poor who are not charged with any Offence, and who may apply for Relief or become chargeable to the Poor Rates within any such Parish or Union.

General Asylum Board.

3. There shall be One General Board for the Establishment and Maintenance within the District constituted by this Act of so many Asylums for the Purposes aforesaid as they may think fit; and the General Board shall consist of so many Members as the Poor Law Board may from Time to Time direct, and the Provisions of the Forty-second Section of the recited Act relating to Members of District Boards, their Election and Qualification, shall (subject to the Provisions of this Act) extend and apply to the General Board and the Members thereof, and their Election and Qualification, and for the Purposes of this Act the Poor Law Board shall have the Powers and fulfil the Duties of the Poor Law Commissioners under that Section.

Extending Provisions of recited Act to General Board.

4. All other the Sections and Provisions of the recited Act relating to District Boards or Asylums, and not repealed by this Act, shall extend and apply to the General Board, and to all Asylums to be established by them; and in those Sections and Provisions the Term "District Board," and every Reference to any District Board, shall, for the Purposes of this Act, include the General Board; and the Term "the said Commissioners" shall, for the Purposes of this Act, mean the Poor Law Board; and all other Words and Terms to which by the recited Act Meanings are assigned shall have in the recited Act, as extended and applied by this Act, the same respective Meanings.

Provision for ensuring Operation of Act.

5. If and whenever the Provisions of this Act, or of the recited Act as extended or applied by this Act, or any of them shall fail of Effect by reason of any Neglect, Refusal, or Failure of any Board of Guardians or Overseers, or of any Chairman of any Board of Guardians, or of any Persons elected under this Act and the recited Act, or of any Officer of any Parish or Union, the Poor Law Board shall apply by Motion to the Court of Queen's Bench for a Writ of Mandamus to command the Body or Person or Persons in default to do all such Acts and fulfil such Duties as may be necessary for carrying into effect the Provisions aforesaid; and the Sections Seventy-six and Seventy-seven of "The Common Law Procedure Act, 1854," shall apply to such Applications and Writs.

6. Every

Admission to Asylums.

6. Every Asylum established in the General District shall be open for the Admission of poor Persons at all Hours, both by Day and by Night; and every Person alleging himself or herself to be destitute shall be ipso facto entitled to Admission, and shall be admitted into such Asylum, and to Food and Lodging, for a Period not exceeding *Twenty-four* Hours at One Time.

Extending Labour Test.

7. As regards every Asylum established in the General District, the Fifty-third Section of the recited Act shall be read and take effect as if the Words "*Eight* Hours" were substituted for the Words "Four Hours" therein; and the Manager of such Asylum may prescribe to any poor Person received therein, a Task of Work for such Time not exceeding *Eight* Hours in One Day as such Manager may think fit.

Separation of Sleeping Compartments.

8. In every such Asylum separate Sleeping Accommodation shall be provided for each Person, and (except where separate Bedsteads at Distances from each other of not less than *Two* Feet shall be provided) shall be divided from the Sleeping Accommodation of every other Person by a continuous and impervious Partition running the whole Length of such Accommodation, and not less than *Seven* Feet in Height.

Casual Poor (Metropolis).

A

BILL

To provide proper and sufficient Accommodation for the Casual Poor in the Metropolis.

(*Prepared and brought in by Viscount Raynham, Sir Stafford Northcote, and Mr. Wykeham Martin.*)

Ordered, by The House of Commons, *to be Printed,* 9 *June* 1863.

[Bill 155.]

Under 1 *oz.*

19 *May* 1863. 26 Vict.

A

B I L L

INTITULED

An Act for the Government of the Cayman Islands.

[Note.—*The Words printed in Red Ink are proposed to be added in Committee.*]

WHEREAS certain Magistrates and other Inhabitants of the Island of Grand Cayman have from Time to Time, in Vestry or otherwise, passed or assumed to pass certain Acts or Resolutions for the Government of the Cayman Islands: And whereas Doubts are entertained whether such Acts or Resolutions are of any Effect in the said Islands, and by what Authority Laws may be made for the Government of the same, and what Laws are actually in force therein; and it is expedient that such Doubts should be set at rest: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. All Acts or Resolutions heretofore passed or purporting to have been passed at any Meeting of the Magistrates or Representatives, or of the Justices and Vestry, or of the Vestry of the Island of Grand Cayman, shall, so soon as a fair Copy of the same shall have been signed by the Governor of Jamaica in verification thereof, be and be deemed to have been valid and effectual, for all Purposes whatever within the said Cayman Islands, from the Date at which the same shall purport to have been passed. Acts and Resolutions of Magistrates, &c. to be valid.

2. It

Legislature of Jamaica to make Laws.

2. It shall be competent to the Legislature of Jamaica to make Laws for the Peace, Order, and good Government of the said Islands, and by such Laws to alter or repeal all or any of the aforesaid Acts or Resolutions; and also to give to the Justices and Vestry, or other Body or Bodies of Persons in the said Islands, such Power of making Laws or Regulations for local Purposes within the same, as to the said Legislature may seem fit.

Justices and Vestry to make Regulations for local Purposes.

3. Until it shall be otherwise provided by the said Legislature, it shall be lawful for the said Justices and Vestry, in their accustomed Manner, or in such other Manner as shall be prescribed in Writing under the Hand and Seal of the Governor of Jamaica, to make such Regulations as to them shall seem fit for the following Purposes; that is to say,

Respecting their own Constitution and Procedure; respecting the Powers and Duties of Public Officers; and especially respecting the Powers, Functions, and Procedure of Justices of the Peace and Officers acting under their Authority; and respecting Appeals from the Decisions of such Justices to the Supreme Court of Jamaica:

Respecting the Establishment, Maintenance, Discipline, and Powers of the Police:

Respecting the Management, Occupation, and Disposal of the Public Property or Common Land:

Respecting the Abatement of Nuisances, the Construction of Works of Public Utility, the making of Roads, the cleansing of Streets and Houses, and other Matters affecting the Health or Convenience of the Community:

Respecting the Custody of Offenders and accused Persons; respecting the Imposition and Collection of Rates and Taxes, and respecting the Custody and Expenditure of the Proceeds thereof:

Provided always, that no Justice of the Peace shall by virtue of any such Regulation try any Suit or Action, without the Consent of the Parties thereto, in which the Value of the Matter in dispute shall exceed One hundred Pounds, nor take cognizance of any Capital Crime, nor sentence any Offender to the Payment of a Fine of more than Fifty Pounds, or to Imprisonment for a longer Term than Twelve Months.

Such Regulations to be signed by Governor of Jamaica.

4. No Regulation made by such Justices and Vestry or other Legislative Authority in the said Islands shall take effect until the same shall have been signed by the Officer administering the Government of Jamaica in token of his Assent thereto; and every such Regulation

Regulation may be disallowed by Her Majesty by Order in Council or through One of Her Principal Secretaries of State, and shall cease to be of any Effect so soon as the Disallowance thereof shall be proclaimed within the said Islands. Disallowance of the same.

5. Except as they may be inconsistent with the aforesaid Acts or Resolutions, and subject to any such Alterations as may be made by or by Authority of the aforesaid Legislature of Jamaica, and to such Regulations as may from Time to Time be made under Authority of this Act, the Laws now in force in Jamaica shall from the Date of this Act be deemed to be in force in the said Islands, so far as the same shall be applicable to the Circumstances thereof. Law of Jamaica to take effect in Cayman Islands.

6. The Officer administering the Government of Jamaica shall have, as far as may be, the same Powers and Authorities in respect of the said Islands as if the same had been Part of the Island of Jamaica. Governor of Jamaica to be Governor of Cayman Islands.

7. The Supreme Court of Jamaica, and all Officers thereof, shall have and exercise, in respect to Suits, Actions, Questions, or Prosecutions arising in the said Islands which may not be lawfully triable by any Authority therein, or which, in conformity with any Law or Regulation in force therein, may be referred for the Decision of the said Court, the same Jurisdiction and Power as if the same Islands were Part of the Island of Jamaica. Supreme Court of Jamaica to try Causes arising therein;

8. It shall be lawful for the Supreme Court to entertain Appeals from the Decisions of a Justice or Justices of the Peace in the said Islands, within such Limits as may be prescribed by any Law or Regulation in force in the said Islands, and by Rule of Court from Time to Time to make such special Provision as the said Court may think requisite, for the proper Hearing and Determination of such Suits, Actions, Prosecutions, and Appeals as aforesaid: Provided that no such Rule shall take effect until it shall have been signed by the Officer administering the Government of Jamaica in token of his Approval thereof. and Appeals therefrom; to make Rules.

Cayman Islands.

A

B I L L

INTITULED

An Act for the Government of the Cayman Islands.

(*Brought from the Lords* 15 *May* 1863.)

Ordered, by The House of Commons, *to be Printed,* 19 *May* 1863.

[Bill 132.]

Under 1 *oz.*

(Ireland.)

A

BILL

FOR

Better Administration of Charitable Trusts in Ireland.

WHEREAS it is expedient to provide Means for securing the due Administration of Charitable Trusts in Ireland, and for the more beneficial Application of Charitable Funds in certain Cases: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The several Acts in the Schedule hereto (save so far as any Acts which have been heretofore done or any Proceedings which may be pending thereunder) shall be and the same are hereby repealed. Acts in Schedule repealed.

2. It shall be lawful for Her Majesty and Her Successors, by Warrant under the Royal Sign Manual, to appoint Commissioners, and also One Secretary and a sufficient Number of Inspectors not exceeding Five Inspectors, for the Purposes of this Act, and upon any Vacancy by the Death, Resignation, or Removal of any Commissioner, Secretary, or Inspector under this Act, from Time to Time in like Manner to appoint another Person to succeed to such Vacancy, and until a fresh Appointment shall be made it shall be lawful for the surviving or continuing Commissioners, in case of any Vacancy, to Her Majesty empowered to appoint Charity Commissioners, Secretary, and Inspectors.

act as if no such Vacancy had occurred; and the said Commissioners, and every Secretary and Inspector to be appointed under this Act, shall hold Office during the Pleasure of Her Majesty.

Qualification of Commissioners.

3. The said Commissioners shall be paid as herein-after mentioned, and Two at least of the said paid Commissioners for the Time being shall be Barristers-at-Law of not less than Twelve Years standing at the Time of their respective Appointments, and One of such Barristers shall be the Chief Commissioner, and shall be so called and distinguished in his Appointment.

Officers of the Board.

4. The said Commissioners, with the Sanction of the Commissioners of Her Majesty's Treasury, shall from Time to Time appoint such Clerks and Messengers as the said Commissioners may think fit, and all Persons appointed under this Provision shall hold their Offices during the Pleasure of the said Commissioners.

Salaries.

5. *There shall be paid to the said Commissioners, and to the said Secretary, Inspectors, Clerks, and Messengers, such Salaries not exceeding for the Chief Commissioner the annual Sum of and for each of the other Commissioners the annual Sum of and for the said Secretary the annual Sum of and for each of the said Inspectors the annual Sum of as shall be from Time to Time allowed by the Commissioners of Her Majesty's Treasury, who may also allow to every Commissioner, Inspector, and other Person appointed for the Purposes of this Act such reasonable Travelling and other Expenses as may be incurred by him in the Execution of his Office; and the said Salaries and Expenses, and the incidental Expenses of the said Board, shall be paid out of any Monies which may be from Time to Time provided by Parliament for that Purpose.*

No paid Commissioner, Secretary, or Inspector to sit in House of Commons.

6. No paid Commissioner, Secretary, or Inspector to be appointed under this Act shall be capable of sitting in the House of Commons during the Tenure of his Office.

Style of Commissioners, who may sit as a Board.

7. The said Commissioners to be appointed under this Act shall be styled "The Charity Commissioners for Ireland," and may have and use a Seal for authenticating Documents, and such Commissioners shall sit from Time to Time as a Board for carrying this Act into execution; and any Two of such Commissioners may form a Board, and may exercise all or any of the Powers conferred on the Commissioners or the Board by this Act.

8. The

Board to frame General Minutes.

8. The said Board shall, by General Minutes, from Time to Time prescribe Regulations for their Proceedings, and the Proceedings of their Inspectors, and concerning the Form and Manner of Applications to the said Board, and the Conditions to be performed by Applicants, and for the Guidance of Applicants in relation thereto, and all such General Minutes shall be signed by of the said Commissioners at the least; and Copies of all such General Minutes shall be laid before both Houses of Parliament within Fourteen Days after the making thereof if Parliament be sitting, or if Parliament be not sitting, then within Fourteen Days after the next Meeting thereof.

Minutes of Proceedings and Orders, &c. to be entered, and signed by the Secretary.

9. The said Board shall cause Minutes of their Proceedings, and all Orders, Certificates, and Schemes, made or approved by them under this Act, to be entered in Books to be provided and kept for such Purpose, and all such Entries shall be signed by their Secretary.

The Acts of the Board, how to be authenticated.

10. Every Act of the Board may be sufficiently authenticated by the Seal of the Commissioners, and the Signature of their Secretary, or in his Absence of the Chief Clerk.

Entries in and Extracts from the Books of the Board, how to be authenticated.

11. All Orders, Certificates, Schemes, and other Documents issued under the Seal of the Board shall be deemed and taken to be the Originals, and Copies thereof shall be entered in the Books of the Board, and all such Entries may be sufficiently certified by the Signature of the Secretary, or in his Absence of the Chief Clerk: Every Order, Certificate, Scheme, and other Document purporting to be sealed with the Seal of the Board shall be received in Evidence without further Proof; and any Writing purporting to be a Copy extracted from the said Books, and to be certified as aforesaid, shall be received in Evidence in like Manner.

Board to inquire into Condition and Management of Charities.

12. It shall be lawful for the said Board from Time to Time, as they in their Discretion may see fit, to examine and inquire into all or any Charities in Ireland, and the Nature and Objects, Administration, Management, and Results thereof, and the Value, Condition, Management, and Application of the Estates, Funds, Property, and Income belonging thereto; and the said Board may cause Examinations and Inquiries in relation to the Matters aforesaid to be made and prosecuted by their Inspectors, acting together or separately, in such Cases and at such Times as the said Board may think fit; and all such Inspectors shall from Time to Time report their Proceedings to the said Board.

The Powers of the Commissioners and Inspectors to inquire into Charities.

13. The Board, or any Commissioner or Inspector, such Inspector acting under the Authority of the Board, may require written Accounts and Statements and Answers to Inquiries relating to any Charity, or the Property or Income thereof, to be rendered or made to them respectively by all or any of the following Persons; that is to say,

Trustees or Persons acting or concerned in the Administration of the Charity; its Property or Income, or in the Receipt or Payment of any Monies thereof:

Agents of any such Trustees or Persons:

Depositaries of any Funds or Monies of the Charity:

Persons in the beneficial Receipt of any Funds thereof, or of any Income or Stipend therefrom:

Persons having the Possession or Control of any Documents concerning the Charity or any Property thereof:

And the Board or the Commissioner or Inspector may require the Persons rendering or making any such Account, Statement, or Answer to verify the same by Oath or otherwise, and may administer such Oath.

Power to require Trustees and others to attend and be examined.

14. The Board, or any Commissioner or Inspector acting as aforesaid, may require all or any such Trustees and Persons as aforesaid to attend before them respectively at such Times and Places as may be reasonably appointed, for the Purpose of being examined in relation to the Charity, and to answer such Questions as may be proposed to them, and to produce upon such Examination any Documents in their Custody or Power relating to the Charity or the Property thereof, and may examine upon Oath or otherwise all such Persons and all Persons voluntarily attending, and may administer such Oath: Provided always, that no Person shall be obliged to travel in obedience to any such Requisition more than Ten Miles from his Place of Abode.

Officers having Custody of Records to furnish Copies and Extracts, if required by Board.

15. All Officers having the Custody of Enrolments, Decrees, Reports, Records, and other Documents relating to or concerning any Charity shall furnish such Copies or Extracts as shall be required by the said Board; and every Inspector, Secretary, and other Officer of the said Board for the Time being employed for the Purposes of this Act shall be at liberty, by the Authority and under the Directions of the Board, and subject to such Regulations as the Board may make in that Behalf, to examine and search the Registers and Records of every Court of Law and Equity, and every Ecclesiastical Court, and every public Registry and Office of Records, and to take Copies of and Extracts from any Decree or Document recorded or registered or deposited therein respectively, for any Purpose

Purpose contemplated by this Act, without Fee or other Payment in respect thereof.

Precepts or Orders for the preceding Purposes how to be made.

16. All Requisitions made under the foregoing Authorities shall be made respectively by the Order of the Board, or by Precept, under the Hand of the Commissioner or Inspector making the same.

Persons giving false Evidence guilty of a Misdemeanor.

17. If any Person wilfully give false Evidence upon any Examination under this Act, every Person so offending shall be deemed guilty of a Misdemeanor.

Persons not complying with Requisitions, &c. to be deemed guilty of a Contempt of the Court of Chancery.

18. Any Person refusing or wilfully neglecting to comply with any such Requisition, or with any Order of the Board, made under the Provisions of this Act, or destroying or withholding any Document required to be produced or transmitted by him, shall be taken to be guilty of a Contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court, on summary Application by the Commissioners to the same Court or to any Judge thereof, and shall pay such Costs attending such Contempt as the said Court or Judge shall direct: Provided always, that the Court may at any Time discharge, on such Terms as it may deem just, any Person attached or committed on any such Application.

Saving for Persons claiming adversely to Charities.

19. Provided always, That nothing herein contained shall extend to give to the said Board or their Inspectors any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information, or the Production of any Deed or Document whatever in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Board to entertain Applications for their Opinion or Advice.

20. The said Board shall receive and consider all Applications which may be made to them by any Trustee or other Person having any Concern in the Management or Administration of any Charity, for their Opinion, Advice, or Direction respecting such Charity or the Management or Administration thereof, or the Estates, Funds, Property, or Income thereof, or the Application thereof, or any Question or Dispute relating to the same respectively, and, if they so think fit, may upon any such Application give such Opinion or Advice as they think expedient, subject to any Judicial Order or Direction which may be subsequently made or given by any competent Court or Judge; and such Opinion or Advice shall be in Writing, signed by Two or more of the said Commissioners, and

Persons acting on Advice of Board to be indemnified.

sealed with the Seal of the said Commission; and every Trustee and other Person who shall act upon or in accordance with the Opinion or Advice given by the said Board shall in respect of so acting be deemed and taken, so far as respects his own Responsibility, to have acted in accordance with his Trust; and no such Judicial Order or Direction subsequently made or given by any Court or Judge shall have any such retrospective Effect as to interfere with or impair the Indemnity by this Act given to Trustees and other Persons who have acted upon or in accordance with such Opinion or Advice of the said Board: Provided always, that nothing herein contained shall extend to indemnify any Trustee or other Person for any Act done in accordance with the Opinion or Advice of the said Board, if such Trustee or other Person have been guilty of any Fraud or wilful Concealment or Misrepresentation in obtaining such Opinion or Advice.

Notice of legal Proceedings as to any Charity by any Person, except the Attorney General, to be given to the Board.

21. Before any Suit, Petition, or other Proceeding (not being an Application in any Suit or Matter actually pending) for obtaining any Relief, Order, or Direction concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, shall be commenced, presented, or taken by any Person whomsoever, there shall be transmitted by such Person to the said Board Notice in Writing of such proposed Suit, Petition, or Proceeding, and such Statement, Information, and Particulars as may be requisite or proper, or may be required from Time to Time by the said Board, for explaining the Nature and Objects thereof; and the said Board, if upon Consideration of the Circumstances they so think fit, may, by an Order or Certificate signed by their Secretary, authorize or direct any Suit, Petition, or other Proceeding to be commenced, presented, or taken with respect to such Charity, either for the Objects and in the Manner specified or mentioned in such Notice, or for such other Objects, and in such Manner and Form, and subject to such Stipulations or Provisions for securing the Charity against Liability to any Costs or Expenses, and to such other Stipulations or Provisions for the Protection or Benefit of the Charity, as the said Board may think proper; and such Board, if it seem proper to them, may by such Order or Certificate as aforesaid require and direct that any Proceeding so authorized by them in respect of any Charity shall be delayed during such Period as shall seem proper to and shall be directed by such Board; and every such Order or Certificate may be in such Form and may contain such Statements and Particulars as such Board shall think fit; and (save as herein otherwise provided) no Suit, Petition, or other Proceeding for obtaining any such Relief, Order, or Direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery,

Courts not to entertain Proceedings as to Charities, except upon Certificate of the Board.

Chancery, or by any Court or Judge, except upon and in conformity with an Order or Certificate of the said Board: Provided always, that this Enactment shall not extend to or affect any such Petition or Proceeding in which any Person shall claim any Property or seek any Relief adversely to any Charity.

Saving for the Attorney General acting ex officio.

22. Provided always, That it shall be lawful for Her Majesty's Attorney General acting ex officio to make such Applications, and take and prosecute such Proceedings with respect to any Charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the Fiat or Allowance of Her Majesty's Attorney General, with respect to any Proceeding, not being an Application under the Jurisdiction created by this Act where such Fiat or Allowance was necessary before the passing of this Act.

Board may, upon the Report of an Inspector, authorize Proceedings, where no Notice has been given to them, and may in other Cases cause local Inquiries by their Inspector.

23. Provided also, That where upon any Report of any Inspector under this Act or otherwise it appears to the said Board that any Suit, Petition, or other Proceeding concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, would be proper or expedient, it shall be lawful for the said Board by their Order to authorize or direct such Suit, Petition, or Proceeding to be commenced, presented, or taken, and to give such Directions in relation thereto as the said Board may think proper; and thereupon such Suit, Petition, or Proceeding may be commenced, presented, or taken accordingly, without any such previous Notice in Writing as hereinbefore mentioned; and the said Board, before giving any such Opinion, Advice, or Direction upon any such Application as aforesaid, or making any such Order or Certificate after Notice to them as aforesaid, may, where local Inquiry appears to them to be requisite, cause such Inquiry to be made by One of their Inspectors; and the said Board may, in any Case where they see fit, before acting upon the Report of any Inspector, cause such Report to be deposited for local Inspection, and give Notice of the same being so deposited, and consider any Statements or Objections which may be transmitted to them in relation thereto.

Power for Board to certify certain Cases to the Attorney General.

24. In any Case in which it shall appear to the said Board that the Institution of legal Proceedings is requisite or desirable with respect to any Charity, or the Estates, Funds, Property, or Affairs thereof, and that under the Circumstances thereof it is desirable that such Proceedings should be instituted by the Attorney General, it shall be lawful for the said Board, if they so think fit, to certify such Case, in

Writing under the Hand of the Secretary of the said Board, to Her Majesty's Attorney General, together with such Statements and Particulars (if any) as in the Opinion of the said Board may be requisite or proper for the Explanation of such Case; and thereupon the said Attorney General, if upon Consideration of the Circumstances he think fit, shall institute and prosecute such legal Proceedings as he shall consider requisite or proper under the Circumstances of such Case, by Information or Petition in the Court of Chancery, or by Application to a Judge thereof at Chambers, or to a District Court of Bankruptcy, or County Court under the Jurisdiction given by this Act.

Board may sanction Building Leases, working Mines, doing Repairs and Improvements;

25. If in any Case it appear to the Trustees or Persons for the Time being acting in the Administration or Management of any Charity, or the Estates or Property thereof, that any Part of the Charity Lands or Estates may be beneficially let on Building, Repairing, Improving, or other Leases, or on Leases for working any Mine, or that the digging for or raising of Stone, Clay, Gravel, or other Minerals, or the cutting of Timber, would be for the Benefit of the Charity, or that it would be for the Benefit of such Charity that any new Road or Street should be formed or laid out, or any Drains or Sewers made through any Part of the Charity Estates, or that any new Building should be erected, or that any existing Building should be repaired, altered, rebuilt, or wholly removed, or that any other Improvements or Alterations in the State or Condition of the Lands or Estates of such Charity should be made, it shall be lawful for such Trustees or Persons to lay before the said Board a Statement and Proposal in relation to any of the Matters aforesaid; and it shall be lawful for the said Board, if they think that the Leases or Acts to which the Statement and Proposal relate (with or without Modifications or Alterations) would be beneficial to the Charity, to make such Order under their Seal for and in relation to the granting of such Leases, or the doing of any other such Acts as aforesaid, and any Circumstances connected therewith, as they may think fit, although such Leases or Acts respectively shall not be authorized or permitted by the Trust; and the said Board, by any such Order, may authorize the Application of any Monies or Funds belonging to the Charity for any of the Purposes or Acts aforesaid, or for any other Purpose or Object which the Board shall consider to be beneficial to the Charity or Estate or Objects thereof, and which shall not be inconsistent with the Trusts or Intentions of the Foundation, and, if necessary, may authorize the Trustees to raise any Sum of Money by Mortgage of all or any Part of the Charity Estates; provided that compulsory Provisions be reserved

and may authorize the Application of the Charity Funds or the raising of Money on Mortgage for those Purposes.

reserved in every such Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Re-conveyance of the mortgaged Estates, within the Period of not more than Thirty Years.

Commissioners to authorize Trustees to remove Officers.

26. It shall be lawful for the Board, upon Proof to their Satisfaction that any Schoolmaster or Schoolmistress or other Officer of any Charity has been negligent in performing his or her Duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral Conduct, Age, or any other Cause whatsoever, to empower the Trustees of such Charity to remove such School Master or Mistress or other Officer, and to charge the Salary of his or her Successors, or any other Portion of the Revenues of the Charity, with such retiring Pension or Allowance, if any, in favour of the Person so removed, and generally to impose such Conditions as to the said Board shall appear proper: Provided always, that where there shall be any special Visitor of the Charity, the Consent of such Visitor, in Writing under his Hand, shall be necessary in order to such Removal.

Masters and Mistresses of Endowed Schools to be removable.

27. Every School Master and Mistress appointed after the Date of this Act shall be removable from his or her Office, after reasonable Notice by the Trustees or Persons acting in the Administration of the Charity, as they shall think expedient in the Interests thereof, so nevertheless that the Removal by virtue only of this Provision of a Master or Mistress who would be otherwise irremovable from his or her Office shall be determined on by all or a Majority of such Trustees or Administrators assembled at a Meeting convened by due Notice, delivered or sent by the Post to all such Trustees or Administrators who shall have any known Place of Residence in Great Britain or Ireland, by the Space of not less than Twenty-eight Days previously, for the special Purpose of considering and determining on the Question of such Removal, and of which intended Meeting a Notice shall also be delivered or sent in like Manner to the Master or Mistress by the same previous Space, and so also that the Resolution of the Meeting for the Removal of any such last-mentioned Master or Mistress shall be forthwith certified under the Hands of the Trustees or Persons acting as aforesaid who shall have concurred therein, or under the Hand of the Chairman of the Meeting, and shall within Seven Days next thereafter be transmitted to the said Board for their Approval, and the same shall not take effect unless or until the same shall have been approved by the said Board, who may also, if they so think fit, fix the Time or any reasonable Conditions at or under which the same shall come into operation; if also there shall be any Special Visitor of the Charity who shall be resident in Great Britain or Ireland, and free from Incapacity, no Removal of any such last-mentioned

Master or Mistress shall be made under the Authority only of the preceding Provision without the written Consent of such Visitor: Provided always, that this Section shall not apply to any endowed Grammar School.

Board may sanction Compromise of Claims on behalf of Charity.

28. If in any Case it appear to the Trustees or Persons acting in the Administration of any Charity that any Claim or Demand or Cause of Suit against any Person, or against any Charity, or the Trustees or Administrators thereof, in relation to such first-named Charity may, with Advantage to the Charity, or should, under the special Circumstances of the Case, be compromised or adjusted without taking or without continuing any Proceedings at Law or in Equity, such Trustees or Persons may, or the Person against whom such Claim, Demand, or Cause of Suit exists or is alleged to exist, may, with the Consent of the Trustees or Persons acting in the Administration of such Charity, submit to the said Board a Statement and Proposal for such Compromise or Adjustment; and if it appear to the said Board after such Inquiry in relation thereto by One of their Inspectors as they may deem requisite, or otherwise, that such Proposal, either with or without any Modification, is fit and proper, and for the Benefit of the Charity, it shall be lawful for the said Board to make such Order for and in relation to such Compromise or Adjustment as they may think fit; and upon the due Performance of the Terms and Conditions of such Compromise or Adjustment as aforesaid, such Agreement shall be a final Bar to all Actions, Suits, Claims, and Demands by or on behalf of the Charity concerned therein, in respect to the Cause of Action, Suit, or Matter in respect to which such Compromise or Adjustment shall have been made.

Board, under special Circumstances, may authorize Sale or Exchange of Charity Lands.

29. Upon Application to the said Board by the Trustees or Persons acting in the Administration of any Charity representing to the said Board that, under the special Circumstances of any Land belonging to the Charity, a Sale or Exchange of such Land can be effected on such Terms as to increase the Income of the Charity, or would otherwise be advantageous to the Charity, such Board may, if they think fit, inquire into such Circumstances, and if after Inquiry they are satisfied that the proposed Sale or Exchange will be advantageous to the Charity may authorize the Sale or Exchange, and give such Directions in relation thereto, and for securing the due Investment of the Money arising from any such Sale, or by way of Equality of Exchange for the Benefit of the Charity, as they may think fit.

30. The

Board may authorize the Redemption of Rentcharges.

30. The said Board shall have Authority, upon such Application as aforesaid, to authorize the Sale to the Owners of the Land charged therewith of any Rentcharge, Annuity, or other periodical Payment charged upon Land and payable to or for the Benefit of any Charity or applicable to Charitable Purposes, upon such Terms and Conditions as they may deem beneficial to the Charity, and to give such Directions for securing the due Investment of the Money arising from such Sale for the Benefit of the Charity, or for securing the due Application thereof to such Charitable Purposes, as they may think fit; and in like Manner the Trustees of any Charity, with the Consent of the Board, may purchase any Rentcharge or other yearly Payment to which the Charity Estate is or shall be liable.

Leases, Sales, &c. authorized by the Board to be valid.

31. The Leases, Sales, Exchanges, and other Transactions authorized by such Board under the Powers of this Act shall have the like Effect and Validity as if they had been authorized or directed by the express Terms of the Trust affecting the Charity.

Trustees of Charities enabled to purchase Sites for building from Owners under Disability, &c., according to the Provisions of Lands Clauses Consolidation Act, 1845.

32. Where any Land shall be required for the Erection or Construction of any House or Building with or without Garden, Playground, or other Appurtenances, for the Purposes of any Charity, but by reason of the Disability of any Person having an Estate or Interest in such Land, or of any Defect in Title thereto, a valid and perfect Assurance of the same Land cannot be made to the Trustees of the Charity in the ordinary Manner, it shall be lawful for the Trustees of the Charity, with the Sanction of the said Board (such Sanction to be certified under the Hand of their Secretary), to take and purchase such Land according to the Provisions of "The Lands Clauses Consolidation Act, 1845;" and for that Purpose all the Clauses and Provisions of the last-mentioned Act with respect to the Purchase of Lands by Agreement, and with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making a Title, and also with respect to Conveyances of Land, so far as the same Clauses and Provisions respectively are applicable to the Cases contemplated by this Provision, shall be incorporated in this Act; and in all Cases contemplated by this Provision, the Expression "the Special Act," used in the said Clauses and Provisions of the said "Lands Clauses Consolidation Act" shall be construed to mean this Act; and the Expression "the Promoters of the Undertaking," used in the same Clauses and Provisions, shall be construed to mean the Trustees of the Charity in question.

In Cases of Charities the Incomes of

33. Where the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction relating to any Charity of which

which exceed 50*l.*, Master of the Rolls upon Applications to him at Chambers, to have the same Jurisdiction as the Court of Chancery or Lord Chancellor now has upon Information, &c.

which the gross annual Income for the Time being exceeds Fifty Pounds, shall be considered desirable, and such Appointment, Removal, or other Relief, Order, or Direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General, to make Application (without any Information, Bill, or Petition) to the Master of the Rolls, for such Order, Direction, or Relief as the Nature of the Case may require; and the Master of the Rolls shall and may proceed upon and dispose of such Application in Chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such Jurisdiction, Power, and Authority, and make such Orders and give such Directions in relation to the Matter of such Application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require; and the Master of the Rolls shall, in relation to such Applications as aforesaid, and the Proceedings thereon, (subject to any Rules which may be made by the Lord Chancellor, with the Advice and Consent of the said Master of the Rolls) have all such Powers of directing Matters to be heard in open Court, and of ordering what Matters shall be heard and investigated by himself and his Chief Clerks respectively, and such other Powers and Authorities as by any Act are vested in or authorized to be exercised by him at Chambers; and the Provisions of the said Acts applicable to Orders made by the Master of the Rolls at Chambers shall extend to all Orders so made under this Act: Provided always, that, save as may be otherwise provided by any Rules to be made by the Lord Chancellor, with such Advice and Consent as aforesaid, the Determinations of the Master of the Rolls upon and in relation to such Applications as aforesaid shall not be subject to Appeal in any Case where the gross annual Income of the Charity does not exceed One hundred Pounds: Provided also, that it shall be lawful for the Master of the Rolls, where under the Circumstances of any Application as aforesaid he may so see fit, to direct that for obtaining the Relief, Order, or Direction sought for by such Application an Information, Bill, or Petition, as the Case may require, shall be filed or presented and prosecuted as now by Law required, and to abstain from further Proceeding on such Application.

Lord Chancellor, with the Advice of Master of

34. It shall be lawful for the Lord Chancellor, with the Advice and Consent of the Master of the Rolls, to make and issue General Rules and Orders for regulating the Mode and Form of Applications at

at the Chambers of the Master of the Rolls under this Act and the Proceedings thereon, and for determining in what Cases and under what Conditions and Restrictions the Determinations of the Master of the Rolls upon or in relation to such Applications shall be subject to Appeal, and the Fees and Allowances to Solicitors of the Court of Chancery, and the Fees to be payable in Money or by Stamps to the Officers of the said Court in respect of such Applications and Proceedings thereon; and such Rules and Orders may from Time to Time be varied by the like Authority, and all such Rules and Orders shall be deemed General Orders of the said Court.

the Rolls to make General Orders.

35. Where any Charity of which the gross annual Income for the Time being does not exceed Fifty Pounds shall be established or administered or be applicable wholly or partially to or for Objects or Purposes within any separate County in Ireland, and the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction whatsoever concerning such Charity, shall be considered desirable, and such Appointment or Removal, or other Relief, Order, or Direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General, to make Application to the Chairman of the Quarter Sessions of such County for such Order, Direction, or Relief as the Nature of the Case may require; and such Chairman shall entertain such Application, and shall hear the Matter in open Court, and shall give such Relief, and make such Orders and Directions in relation to the Matter of such Application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require: Provided always, that no such Chairman shall be authorized to vary any Decree, Order, or Direction of the Court of Chancery, or of any Judge thereof, or to make or give any Order or Direction inconsistent or conflicting with any such Decree, Order, or Direction: Provided also, that where Two or more Chairmen shall have concurrent Jurisdiction with respect to any Charity under this Act, no Application in respect of such Charity shall be made to or entertained by more than One of such Chairmen at the same Time.

Chairman of Court of Quarter Sessions to have Jurisdiction in Cases of Charities the Incomes of which do not exceed 50*l.*

36. The Jurisdiction hereby created and conferred on the said Chairmen with respect to any Charity shall not be exercised by any Deputy or other Person who may for the Time being be appointed to sit and shall be sitting for any such Chairman.

Deputy sitting for Chairman not to exercise Jurisdiction.

Board may direct Cases within the Jurisdiction of Chairman to be taken before the Court of Chancery in the first instance.

37. It shall be lawful for the said Board to direct that any Application as to any Charity within the Jurisdiction of any Chairman as aforesaid shall be made before a Judge of the Court of Chancery according to the Provisions herein contained applicable to a Charity the gross annual Income whereof exceeds Fifty Pounds, and in such Case such Application shall be made and may be heard and determined accordingly, in like Manner as if the gross annual Income of such Charity exceeded Fifty Pounds; and upon the Production of the Order or Certificate containing such Direction, or of a Copy thereof, the Application with respect to which such Order or Certificate shall have been made shall not be entertained or proceeded with by such Chairman.

No Order of Chairman for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

38. Whenever any Order or Decision is made by any such Chairman for the Appointment or Removal of any Trustee of any Charity, or approving of any Scheme for regulating or directing the Administration of any Charity, or the Estate, Funds, Property, or Income thereof, a Copy of every such Order or Decision shall immediately upon the making thereof be delivered or transmitted by the Clerk of the Peace for said County, together with all requisite Particulars, to the said Board, for the Purpose of being considered by them; and no such Order or Decision shall be valid or effectual until the same shall have been approved by the said Board, such Approval to be testified by a Certificate in Writing, signed by the Secretary of the said Board, and no such Approval shall issue from the said Board until One Calendar Month shall have elapsed after the Receipt by the Board of such Copy and Particulars.

Board, if dissatisfied with the Order of Chairman may remit the Case for Reconsideration, or may transfer the Matter to the Court of Chancery.

39. In case any such Order or Decision as last aforesaid of any Chairman as aforesaid shall not be approved by the said Board, it shall be lawful for such Board to remit the same for Re-consideration and Decision by such Chairman, with such Remarks and Recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the Discretion of the Board, to order and direct that the Subject Matter to which such Order or Decision relates, together with such Order or Decision, shall be submitted to the Consideration and Decision of a Judge of the Court of Chancery, and in such last-mentioned Case no further Proceedings shall be had or taken in the Court of the said Chairman with respect to the Matter in question; and in case the Order or Decision of the Chairman on the Re-consideration of any Order or Decision so remitted for Reconsideration be disapproved as aforesaid by the said Board, such Board shall refer such Orders and Decisions, and the Subject Matter thereof, to a Judge of the Court of Chancery; and where any Order or Decision is referred to a Judge of the Court of Chancery, under this Provision, such Judge shall have and exercise all such Jurisdiction, Power, and Authority in relation thereto

thereto as in the Case of a Charity the gross annual Income whereof exceeds Fifty Pounds, and may make such Order in relation to the Matter of such Order or Decision as to him may seem proper.

How Orders of Chairman under this Act to be enforced.

40. Subject to any Orders to be made by the Lord Chancellor as herein-after mentioned, and to the other Provisions of this Act, all Proceedings to be taken before such Chairman, and all Orders and Directions to be made or given by him by virtue of the Jurisdiction hereby created and conferred on such Court, shall respectively be subject to the same Rules and Regulations, and have the same Effect, and be registered, enforced, and executed in the same Manner, as the other Proceedings, Orders, Judgments, and Directions of the same Court under its ordinary Jurisdiction, and it shall be lawful for any such Chairman, with the Consent of the Board, to rescind or vary any Order which shall have been previously made by such Court, without Prejudice to any Act or Matter in the meantime done under such Order.

Appeal.

41. Where any Person authorized to make any Application under this Act, (other than Her Majesty's Attorney General acting ex officio,) or any other Person who may have been made a Party to any Proceeding upon any Application under this Act, is aggrieved by or dissatisfied with any Order made by any such Chairman upon any such Application, or any Proceeding thereon, he may, within One Calendar Month after the making of such Order, give Notice in Writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such Appeal should be entertained, and give a Certificate to that Effect, such Chairman shall suspend any Proceedings upon the Order appealed against during such Time as the Circumstances may require; and the said Board, if they so think fit, may require the Person giving any such Notice of Appeal to become bound, with Two sufficient Sureties, to be approved by the Clerk of the Peace of such County, such Clerk of the Peace or such other Person as the said Board may see fit, in such Sum as to the said Board shall seem reasonable, to pay such Costs of the Proceedings on the Appeal as shall be ordered to be paid by such Appellant, and also (if the said Board so think fit) to indemnify the Charity against the Costs and Expenses of or attending such Appeal; and every Bond executed under this Provision shall be exempt from Stamp Duty: Provided always, that it shall be lawful for Her Majesty's Attorney General (acting ex officio), at any Time within Three Calendar Months after the making of any Order by any Chairman under this Act, to lodge and commence and prosecute an Appeal against such Order, without giving any such Notice or becoming bound as aforesaid, and

every such last-mentioned Appeal shall thereupon be allowed by the Order of such Chairman, and shall have such other Effect as any other Appeal under this Act.

Proceedings on Appeal.

42. Where any Order allowing an Appeal has been made as aforesaid, the Person thereby allowed to appeal shall within Three Calendar Months present a Petition to the Court of Chancery, setting forth the Order appealed against, and the Order allowing such Appeal, and praying such Relief as the Case may require; and upon the Hearing of such Petition the Court ma confirm, vary, or reverse the Order appealed against, or may remit such Order to the Chairman by which the same was made, with or without any Declaration or Directions of the Court of Chancery in relation thereto, or the Court may make such other Order in relation to the Matter of any such Appeal as to the Court may seem just, and as might be made in the Case of a Suit regularly instituted, or a Petition, as the Case may require; and in case the Party allowed to appeal do not within such Three Calendar Months present such Petition of Appeal, the Order against which such Appeal was allowed shall be final; and in case any Costs adjudged on any such Appeal to be paid by the Party allowed to appeal be not paid, such Bond as aforesaid may be put in Suit, and the Money to be recovered on every such Bond shall be applied to indemnify the Charity Estate or the Person damnified, or otherwise in such Manner as the Justice of the Case may require, and the Court or Judge by whom such Appeal may have been heard shall think fit.

Bond to prosecute Appeal may be put in Suit.

No Chairman in Proceedings under this Act to try Titles, &c.

43. Provided always, That no Chairman shall upon any Proceedings under this Act have Jurisdiction to try or determine the Title at Law or in Equity to any Real or Personal Property, or any Term or Interest therein, as between any Charity, or the Trustee thereof, and any Person holding or claiming such Real or Personal Property, Term, or Interest adversely to such Charity, or to try or determine any Question as to the Existence or Extent of any Charge or Trust.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

44. Before any Application shall be made to any Chairman under any of the Provisions herein contained for the Establishment or Alteration of a Scheme or the Appointment or Removal of any Trustees or Trustee, Notice in Writing of such intended Application shall be given in such Form and Manner as the said Board shall have directed; and if the Order be that such Notice be affixed to or near the Door of any Parish or District Church, the Incumbent and Churchwardens of such Parish or District are hereby respectively required to allow such Notice to be affixed and to remain so affixed during such Period, not less than Fifteen Days, as the said Board shall have ordered;

ordered; and in any Case in which the Order shall be that such Notice shall be affixed to any Place, Evidence that the same has been so affixed shall be deemed and taken as primâ facie Evidence that it has remained affixed during the Period prescribed by the Board.

By whom Applications may be made.

45. Every Application to any Judge or Court under the Jurisdiction created or conferred by any of the Provisions of this Act, may be made by Her Majesty's Attorney General, or, subject to the Provisions aforesaid, by all or any One or more of the Trustees or Persons administering or claiming to administer, or interested in, the Charity which shall be the Subject of such Application, or any Two or more Inhabitants of any Parish or Place within which the Charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney General for the Time being, acting ex officio, to make Application by Petition to the Court of Chancery with respect to any Charity under the Provisions of the Act passed in the Fifty-second Year of King George the Third, Chapter One hundred and one, or under the Provisions of any Act or Acts passed or to be passed authorizing the Application to the same Court by Petition according to the Provisions of the said Act.

Attorney General may petition under 52 G. 3. c. 101.

Certain administrative Powers to be exercisable by the Charity Commissioners.

46. The Board of Charity Commissioners appointed by this Act, subject to the Restrictions and Rights of Appeal herein-after provided, shall have Power from Time to Time, upon the Application of any Person or Persons who, under the last preceding Section of this Act, might be authorized to apply to any Judge or Court for the like Purposes, to make such effectual Orders as may now be made by any Judge of the Court of Chancery sitting at Chambers, or by any Chairman of Quarter Sessions, for the Appointment or Removal of Trustees of any Charity, or for the Removal of any School Master or Mistress or other Officer thereof, or for or relating to the Assurance, Transfer, Payment, or vesting of any Real or Personal Estate belonging thereto, or entitling the Official Trustees of Charitable Funds, or any other Trustees, to call for a Transfer of and to transfer any Stock belonging to such Estate, or for the Establishment of any Scheme for the Administration of any such Charity.

Board to notify to Trustees of Charity their Intention of exercising Jurisdiction.

47. The said Board, previously to making any Order under the Jurisdiction vested in them by this Act, shall notify to the Trustees or Administrators (if any) of the Charity to be affected thereby their Intention of exercising such Jurisdiction, by Notice in Writing, to be delivered to them, or sent to them by the Post at their last known Place of Abode in Great Britain or Ireland.

The Powers to be exercisable over

48. The said Board shall not make any Order, under the Jurisdiction vested in them by this Act, with respect to any Charity of which

no Charities of which the gross Income shall exceed 50*l.* without Application of Trustees.

which the gross annual Income, exclusively of the yearly Value of any Buildings or Land used wholly for the Purposes thereof, and not yielding any pecuniary Income, shall amount to Fifty Pounds or upwards, except upon the Application of the Trustees or Persons acting in the Administration of the Charity, or a Majority of them, to be made to the said Board in Writing under their Hands if they shall be unincorporated, or under their Common Seal if they shall be incorporated, and the Board shall not make any Order removing any Trustee on the Ground only of his Religious Belief.

The Board shall not exercise Jurisdiction over Contentious Cases.

49. The said Board also shall not exercise the Jurisdiction hereby vested in them in any Case which, by reason of its Contentious Character, or of any special Questions of Law or of Fact which it may involve, or for other Reasons, they may consider more fit to be adjudicated on by any of the Judicial Courts.

Notices to be given of certain Orders, and Objections or Suggestions to be received.

50. No Order appointing or removing a Trustee, or establishing a Scheme for the Administration of any Charity, shall be made by the said Board before the Expiration of One Calendar Month after public Notice of the Proposal to make such Order shall have been given, as they may consider most expedient and effectual for ensuring the Publicity thereof, in each Parish or District in which the Charity, if of a local Character, shall be applicable, or among all Persons interested therein; and no Order removing a Trustee or School Master or Mistress or other Officer of a Charity who shall have any known Place of Residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the Expiration of One Calendar Month after Notice of the Proposal to make such Order shall have also been delivered to him or her, or sent by the Post or otherwise to such his or her Place of Residence, and until after sufficient Hearing of the Matter before the said Board, or some Member thereof, or One of their Inspectors; and every Notice hereby required shall contain (so far as conveniently may be) sufficient Particulars of the Objects of the proposed Order, and shall prescribe a reasonable Time within which any Objections thereto or Suggestions thereon may be made or transmitted to the Board; and the said Board shall receive and consider all such Objections and Suggestions, and may withhold, suspend, or modify their proposed Order, as they shall thereupon, or in the Result of further Inquiry, or otherwise, think expedient.

Publication of definitive Orders.

51. A Copy of every such Order when made shall, in the Case of any Local Charity, be deposited for the Space of One Calendar Month in some convenient Place within the Parish or One of the Parishes or in the District in which the Charity shall be applicable, and

and shall be open to public Inspection there at all reasonable Hours during the same Period; and a Copy also of every such Order relating to any Charity, whether local or general, shall be kept, open to public Inspection at all reasonable Hours, at the Office of the Commissioners, during a like Period of One Calendar Month; and in each Case effectual Publicity shall be given to the making of the Order by such Means as the Board shall consider most expedient for that Purpose.

Power to appeal against Orders of Board.

52. The Attorney General, or any Person authorized by him or by the said Board, in the Case of any Charity, whatever may be the yearly Income of its Endowments, and any Trustee or Person acting in the Administration of or interested in any Charity of which the gross yearly Income to be calculated in manner aforesaid, shall exceed Fifty Pounds, or any Two Inhabitants of any Parish or District in which the same shall be specially applicable, may, within Three Calendar Months next after the definitive Publication of any Order of the said Board appointing or removing a Trustee or Trustees, or for or relating to the Assurance, Transfer, Payment, or vesting of any Real or Personal Estate, or establishing a Scheme for the Administration of the Charity, present a Petition to the High Court of Chancery in a summary Way, appealing against such Order, and praying such Relief as the Case may require; and any Schoolmaster or Schoolmistress or other Officer removed by the Order of the Board, without the Concurrence of the Trustees or Persons acting in the Administration of the Charity, or a Majority of them, and without the Approval of a Special Visitor, if any, of the Charity, may, within Two Calendar Months (next after his or her Removal), appeal in like Manner against the Order of Removal; and the Court, upon or before the Hearing of any such Petition of Appeal as aforesaid or at any Stage of the Proceedings, may require, if it shall think fit, from the said Board, their Reasons for making the Order appealed against, or for any Part of such Order, and may remit the same to the Board for Reconsideration, with or without any Declaration in relation thereto, or may make any substitutive or other Order in relation to the Matter of the Appeal, as it shall think just; and the Court may make any Order respecting the Costs, Charges, or Expenses incident to the Appeal, and may also, before hearing or proceeding with the same, require from any Appellant, other than the Attorney General, proper Security for such Costs, Charges, and Expenses as may be eventually payable by him; but no such Petition of Appeal shall be presented by any Person, other than the Attorney General, before the Expiration of Twenty-one Days after written Notice, under the Hand of such Appellant,

of his or her Intention to present such Petition, shall have been delivered to the said Board at their Office.

Who may be the Respondent on Appeals.

53. The Attorney General, if he shall think fit, or any Person authorized by him or by the said Board, may appear as the Respondent upon any such Appeal, and the Court may make any Order respecting the Costs, Charges, and Expenses of the Attorney General or other Defendant.

Powers to be applicable to Charities vested in Corporations, &c.

54. The Jurisdiction vested by this Act in the said Board shall be exercisable with reference to Charities vested in any Corporation Sole or Aggregate, who, either solely or jointly with any other Person or Persons, shall also be the Recipients of the Benefit thereof.

Power to apportion Parochial Charities after Division of Parishes.

55. Where any Parish or Ecclesiastical District entitled to the Benefit of a Charity has or shall have been divided into separate Parishes or Ecclesiastical Districts, and no Apportionment of Charities originally applicable to the Parish or District so divided shall have been made by Parliament or other competent Authority, the Board, in respect of all Charities the gross annual Income whereof does not for the Time being exceed Fifty Pounds, may apportion the Benefit of the Charity between each new Parish or District, or any Portion thereof taken from the Parish or District originally entitled to the whole Benefit, and the Remainder of such last-mentioned Parish or District, in such Manner and such Proportions as, upon a Consideration of the Purposes of the Charity, the Population of each Parish or District, and other Circumstances, they may think fit, and may also apportion the principal Endowments between such Parishes or Districts, if it be thought fit, and may appoint separate Trustees of any Part of the Endowments.

Notices to be given of certain Orders of the Board.

56. No Order for apportioning the Benefits of any Charity shall be made by the Board until after such public Notices shall have been given of the Proposal to make the same as the Board may consider expedient for insuring Publicity in each Parish or District in which the Charity is or ought to be applied, or among all Persons interested therein, nor until after the Expiration of One Month from the Publication of such Notice; and every such Notice shall contain (so far as conveniently may be) sufficient Particulars of the proposed Order to show the Objects thereof, and shall prescribe a Time within which any Objections thereto may be stated or transmitted to the Board.

Proceedings upon the Receipt of Objections or Suggestions.

57. All Objections which may be made to any proposed Order shall be considered by the Board, who may suspend the making thereof for further Inquiry, or may modify the same, as may be found expedient; and a Copy of every such Order when made shall, in the Case

Case of any local Charity, be deposited for the Space of One Month in some convenient Place within the Parish or One of the Parishes or the District in which the Charity is applicable, and also be open to Inspection at the Office of the Commissioners, and such Publicity shall be given thereto among all Persons interested in the Charity as the Board shall consider expedient; or if the Charity be not local, then a Copy of such Order shall be open to Inspection at the Office of the Commissioners, and public Notice thereof shall be given in such Manner as to the Board shall seem fit, and in Cases where there is a Special Visitor, Notice shall be given to him.

Statement in Certificate of Board of the Amount of Income of any Charity to be sufficient Evidence for determining the Jurisdiction or Proceedings under this Act.

58. For the Purposes of determining the Jurisdiction under this Act with respect to any Charity, or the Right to appeal from the Determination of a Judge of the Court of Chancery, it shall be lawful for the said Board to declare, according to such Judgment as they may be able to form upon the Returns or Statements before them in relation to any Charity, whether the gross annual Income for the Time being of such Charity does or does not exceed Fifty Pounds or One hundred Pounds, (as the Case may require,) and a Statement in any Certificate or Order of the said Board that according to such Judgment as aforesaid the gross yearly Income of any Charity does or does not exceed Fifty Pounds or One hundred Pounds shall be sufficient Evidence of the Amount of the gross annual Income of such Charity, for the Purpose of determining such Jurisdiction or Right to appeal as aforesaid; and any Certificate or Order made by the said Board under this Act, authorizing any Proceeding or Application concerning any Charity to be taken or made to any Chairman of Quarter Sessions, or to the Court of Chancery, or any Judge thereof, shall state that the gross annual Income for the Time being of such Charity does not exceed Fifty Pounds, or does exceed Fifty Pounds (as the Case may be): Provided always, that where any Charity, or the Trustees thereof, in addition to the principal Endowment for its general Objects and Purposes, shall be possessed of or entitled to any other Endowment for any particular or special Object or Purpose arising out of or in its Nature or Application connected with the general Objects or Purposes of such Charity, it shall be lawful for the said Board, having regard to the Circumstances of each such Case, and to the Object and Extent of the proposed Application and Litigation, to determine whether such Endowment for such particular or special Object or Purpose should, for the Purposes of Jurisdiction and Proceedings under this Act, be considered and treated as forming Part of the general Endowment of the Charity, or as a separate or independent Charity, and such Board shall frame their Certificate of Order accordingly.

Proviso as to particular Endowments.

Lord Chancellor to make Orders for regulating Proceedings before District and County Courts. Judges to regulate Proceedings.

59. The Lord Chancellor shall make such Orders for regulating Proceedings by and before the Chairman aforesaid under this Act, and for fixing and determining the Fees to be taken in respect of such Proceedings, as he may see fit; and, subject to such Orders, such Judges may regulate the Proceedings before them respectively so as to render them as summary and inexpensive as conveniently may be.

Reservation of Rights and Privileges of Church of England with respect to Charities.

60. Nothing herein contained shall diminish or detract from any Right or Privilege which by any Rule or Practice of the Court of Chancery, or by the Construction of Law, now subsists for the Preference or the exclusive or special Benefit of the Church of England, or the Members of the same Church, in settling any Scheme for the Regulation of any Charity, or in the Appointment or Removal of Trustees, or generally in the Application or Management of any Charity.

Secretary to be a Corporation.

61. The Secretary for the Time being of the said Board shall by virtue of his Appointment be the Official Trustee of Charity Lands; and such Official Trustee shall, for the Purposes of taking, holding, conveying, assigning, transferring, and transmitting Real Property, including Leaseholds for Lives or Years, be a Corporation Sole by the Name of "The Official Trustee of Charity Lands," and by that Name shall have perpetual Succession, and plead and be impleaded before all Courts, Justices, and others.

Land holden upon trust for a Charity, subject to Jurisdiction of Court of Chancery and of Judge, may be vested in Treasurer,

62. Where any Land, or any Term or Estate therein, holden upon trust for any Charity, shall be vested in any Persons other than the Persons acting in the Administration and Application of the Rents; or where there shall be no Trustees thereof, or the Trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such Land, Term, or Estate, shall be vested, or all or any of the Persons in whom such Land, Term, or Estate, shall be vested, cannot be found, or shall be under Age, lunatic, or of unsound Mind, (whether found such by Inquisition or not,) or otherwise incapable of acting, or shall be out of the Jurisdiction or not amenable to the Process of the Court of Chancery, or where by reason of the reduced Number of Trustees or other Causes a valid Appointment of new Trustees cannot be made, or where by reason of the Expenses incident to the Appointment of new Trustees, and the Conveyance or Assignment of such Land, Term, or Estate, to such new Trustees, it shall appear to the Court of Chancery, or to any Judge of any Court having Jurisdiction with respect to such Charity under this Act, or to the said Board, desirable so to do, such Court or Judge may order that such Land, Term, or Estate be vested in such Official Trustee, and thereupon the same shall vest in such Official Trustee and his Successors for all the Estate

Estate and Interest holden in trust for the Charity as aforesaid, without any Conveyance or Assurance thereof; but no such Vesting Order as aforesaid shall be made in respect of any Land, or Term or Estate as aforesaid, holden in trust as aforesaid, vested in a Corporation, without the Consent of the Corporation; and no such Vesting Order shall take effect in respect of any Copyhold Land without the Consent of the Lord of the Manor; and the Court of Chancery, or such Judge, may direct such periodical or other Payment, as such Court or Judge may think fit, to be made to the Lord of the Manor, in compensation for Fines or other Profits which would have become due upon Death or Admittance of Tenants. Proviso.

63. It shall be lawful for any Court or Judge by whom respectively any such Vesting Order may have been made, or for any other Court or Judge having Jurisdiction in the Matter, or for the said Board, if it shall so seem fit to such Court, Judge, or Board, from Time to Time to order that all or any Part of the Land, Term, or Estate which shall for the Time being be vested in the said Treasurer by virtue of any such Vesting Order as aforesaid, shall be devested, and that the same shall be vested in the acting Trustees or Trustee for the Time being of the Charity; and such last-mentioned Order shall operate to vest such Land, Term, and Estate, in the Trustees or Trustee therein named without any Conveyance or Assurance. Orders may be made revesting Land, &c. in the Trustees of the Charity.

64. Subject to the Orders and Directions of the Court of Chancery or of any such Judge, such Official Trustee shall be deemed a Bare Trustee, and shall permit the Persons acting in the Administration of the Charity to have the Possession, Management, and Control of the Trust Estates, and the Application of the Income thereof, as if the same had been vested in them. Treasurer to be a Bare Trustee.

65. The Secretary for the Time being of the said Board, and such other Person or Persons as the Lord Chancellor shall from Time to Time by Writing under his Hand appoint, shall be official Trustees of Charitable Funds, and where Trustees or other Persons having in their Names or in the Name of any deceased Person of whom they are Representatives, in the Books of the Banks of England, or Ireland, or of the East India or South Sea Company, or of any other public Company, any Annuities, Stock, or Shares, or holding any Government or Parliamentary or other Securities in trust for any Charity, shall be desirous to transfer or deposit the same to or with the said official Trustees in trust for such Charity, or where any Persons shall be desirous of transferring or depositing as aforesaid any Annuities, Stocks, Shares, or Securities for discharging any Legacy or Charge given or made to or for the Benefit of any Charity, or where it shall appear Judge may order Trustees, &c. holding Stock, &c. belonging to a Charity subject to his Jurisdiction to transfer same to official Trustees.

appear to the Court of Chancery, or to any Judge of such Court, or of any Chairman having Jurisdiction under this Act or to the said Board that any Annuities, Stock, Shares, or Securities held in trust for any Charity ought, for the Purpose of Security or convenient Administration, to be transferred or deposited as aforesaid, it shall be lawful for such Court or Judge to order the Transfer or Deposit of such Annuities, Stock, Shares, or Securities to or with such official Trustees.

Such Trustees to have perpetual Succession, and may hold Funds in that Name.

66. The said Official Trustees of Charitable Funds, and their Successors, to be so appointed, shall have perpetual Succession by the Name of "The Official Trustees of Charitable Funds," and may hold by that Name Stock in the Public Funds, and Stock and Shares of any Public Company, Securities, and Monies, which shall respectively devolve to their Successors, the Official Trustees of Charitable Funds for the Time being, without Transfer or Assignment.

Vesting Lands, &c. in Official Trustee of Charity Lands.

67. All Lands or Estates or Interests in Land now vested in the Commissioners of Charitable Donations and Bequests in Ireland, shall become, upon the passing of this Act and by virtue thereof, vested in like Manner and upon the same Trusts in "The Official Trustee of Charity Lands."

Transfer of Stock into Name of Official Trustee of Charitable Funds.

68. All Stock in the Public Funds, vested in the Names of the Commissioners of Charitable Donations and Bequests in Ireland, shall upon the passing of this Act be transferred by the Governor and Company of the Bank of Ireland from their Names to the Account of the Official Trustees of Charitable Funds.

The Official Trustees of Charitable Funds may be empowered to call for Transfers to them of Stock, &c.

69. Any Court or Judge or the said Board having Jurisdiction to order the Transfer of Stock in the Public Funds, or Stock or Shares of any public Company, to the Official Trustees of Charitable Funds, shall have Power also to authorize such Trustees to call for a Transfer of and to transfer such Stock or Shares, and may also order the Payment to the same Trustees of any Principal Monies of any Charity under the same Circumstances in which the Transfer of Stock to them may now be ordered.

Official Trustees of Charitable Funds may be empowered to receive Arrears of Dividends.

70. Any Court or Judge, or the said Board, having Jurisdiction to authorize the Official Trustees of Charitable Funds to call for a Transfer of and to transfer any Annuities, Stock, or Securities, may empower them also receive and recover, in trust for the Charity to which the same shall belong, all Dividends, Interests, and Income accrued from any such Annuities, Stock, or Securities respectively, and which shall for the Time being be in arrear.

71. The

Secretary to keep separate Accounts of Funds of each Charity.

71. The Secretary of the said Board shall keep separate Accounts of the Annuities, Stock, Shares, and Securities belonging to each separate Charity, and the said Official Trustees shall pay the Dividends or Interest or Income thereof, to the Trustees or Persons acting in the Administration of such Charity, or otherwise dispose thereof, and transfer such Annuities, Stock, Shares, or Securities (when Occasion shall require), as the Court of Chancery, or any Judge of such Court, or any Chairman, or the said Board having Jurisdiction under this Act, or other lawful Authority, shall direct.

Mode of drawing on the Banking Account.

72. All Orders for Payment of any Money held upon such Banking Account shall be signed by One at least of the Official Trustees of Charitable Funds, not being the Secretary of the Board, and also by the Secretary, and shall be countersigned by One of the Commissioners, or shall be otherwise signed or authenticated in such Manner as the Lord Chancellor shall from Time to Time by Order under his Hand direct; and such Order shall be a sufficient Authority to the Bank paying the same for all such Payments.

Trustees may transfer Stock to Official Trustees.

73. Any Trustee or other Person may, on obtaining an Order of the Board for the Purpose, transfer any Stock or pay any Money to the Official Trustees of Charitable Funds in Trust for any Charity.

As to Disposal of Principal Monies paid to them.

74. All Principal Monies belonging to any Charity directed to be paid to the Official Trustees of Charitable Funds shall be paid to their Account at the Bank, and, subject to any Order of the Court or Judge or of the Board by which respectively the Payment shall have been authorized, shall be forthwith invested in the Public Funds in the Names of the Official Trustees of Charitable Funds, for the Benefit of the Charity to which they shall belong.

All Dividends and Interest due to the Official Trustees of Charitable Funds to be placed to their Banking Account.

75. The Dividends arising from all Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds shall from Time to Time be received by the Governor and Company of the Bank of Ireland, under the Authority of this Act, for the Credit of the said Official Trustees, and shall be placed to their Banking Account accordingly; and all Dividends and Interest arising from any other Stock, Shares, or Securities standing in the Name of or held by the Official Trustees of Charitable Funds shall be paid only to the Governor and Company of the Bank of Ireland for the Account of the same Trustees; and the said Trustees shall from Time to Time execute to the said Governor and Company all such Powers as shall be found necessary for enabling them to receive and give effectual Discharges for the last-mentioned Dividends and Interest.

For the Regulation of Transfers and Payments to or by the Official Trustees.

76. No Transfer of any Stock, Shares, or Securities shall be made to the Official Trustees of Charitable Funds, nor shall any Money, other than the Dividends or Interest of any such Stock, Shares, or Securities as aforesaid, be paid to their Account, except in pursuance of an Order of the Court of Chancery, or of some Judge thereof, or of some Chairman of Quarter Sessions, or of the Board; and no Transfer of any such Stock, Shares, or Securities shall be made by the Official Trustees, except under the Order of such Court or Judge, or under the Order of the Board signed by Two Commissioners, or authenticated in such Manner as the Lord Chancellor from Time to Time by any Order under his Hand direct; and no Transfer to or by the Official Trustees shall be permitted by the Governor and Company of the Bank of Ireland or any other Company contrary to this Provision.

Copies of all Orders affecting the Account of the Official Trustees to be sent to the Board.

77. Copies of all Orders made by any Court or Judge for any Transfer, Deposit, or Payment of Stock, Shares, Securities, or Monies to or by the Official Trustees of Charitable Funds shall be forthwith transmitted to the Board by the Parties obtaining such Orders.

Indemnity to the Bank and others.

78. Every Order made under this Act, requiring or authorizing the Transfer, Payment, or Deposit of any Stock, Shares, Securities, or Monies to or with the Trustees of any Charity or the Official Trustees of Charitable Funds, or conferring a Right to call for or to make such Transfer, shall be a complete Indemnity to the Governor and Company of the Bank of Ireland and all Companies and Persons for any Act done pursuant to such Order; and the said Governor and Company and other Companies and Persons shall be required to give effect or to conform to every such Order, and it shall not be necessary for them to inquire concerning the Propriety of such Order, or the Jurisdiction of the Court or Judge or the Board to make the same.

Dividends on Stock in Name of Official Fund Trustees to be carried to Account free from Income Tax.

79. All Dividends arising from any Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds, and which shall be certified by the Board to the Governor and Company of the Bank of Ireland to be exempt from the Property or Income Tax, shall be paid or carried to the Banking Account of the Official Trustees without any Deduction of such Tax; and all Dividends arising from any Stock in the Public Funds standing in any other Names or Name, and which the Board shall certify to the Governor and Company of the Bank of Ireland to be subject only to Charitable Trusts, and to be exempt from such Tax, shall be paid without any Deduction thereof.

80. No

Official Trustee not to be accountable for Loss unless occasioned by his own Neglect.

80. No Official Trustee of Charitable Funds, appointed under or in pursuance of this Act, shall be chargeable with or accountable for any Loss or Misapplication of the said Charitable Funds, or the Dividends, Interest, or Income thereof, unless the same shall have been occasioned by or through his own wilful Neglect or Default.

Trustees may deposit Deeds, &c. for Security in a Repository provided by the Board.

81. It shall be lawful for any Trustees or other Persons having the Custody of any Deeds or Muniments of or relating to such Charity to deposit the same for security in a Repository which may be provided by the said Board, subject to any Regulations to be made by the said Board under this Act.

Power to require the Transmission of Documents belonging to Charities.

82. The Board may require any Person having the Custody or Control of any Deed or Document in which any Charity or Charities shall be solely interested to transmit the same to the Office of the said Commissioners for Examination; and where such Deed or Document shall not be held by any Person entitled as a Trustee or otherwise to the Custody thereof, the Board may either retain the same, for the Security thereof, or, as they may think most advantageous to the Charity, may thereupon, or at any Time thereafter, return or issue the same to the Trustees or Persons acting in the Administration of the Charity, for the Purposes thereof.

Power to Board to frame Schemes for the Appropriation of Charitable Property to varied Trusts.

83. Where upon the Application of any Trustees or other Persons concerned in the Management or Administration of any Charity, or interested in the Benefits thereof (and after such Examination or Inquiry as the Board may think necessary in relation thereto), or upon any Report of an Inspector, or Information otherwise obtained by the said Board under this Act, with relation to any Charity, it shall appear to the said Board to be desirable to have a new Scheme for the Application or Management of the Charity, and such new Scheme as contemplated or considered desirable by the Board cannot be, or it shall in the Opinion of the Board be doubtful whether it can be carried into complete effect by the Court of Chancery, or by any Chairman under the Jurisdiction created by this Act, or otherwise than by the Authority of Parliament, it shall be lawful for the said Board in every such Case provisionally to approve and certify such new Scheme in the Manner and subject to the Regulations hereinafter mentioned

Notice to be given before Approval of Schemes, and Objections may be submitted for the

84. One Month at least before any such new Scheme shall be so provisionally approved, Notice thereof shall be given in such Manner as the Board may in each Case consider proper or expedient for ensuring due Publicity, and every such Notice shall contain such Particulars of the proposed Scheme as the said Board think fit, and

Consideration of the Board.

as shall be deemed by the said Board sufficient to show the Nature of such Scheme, and where the Nature thereof cannot conveniently be shown in the said Notice, such Notice shall refer to some convenient Place within the Parish or District, and to the Office in Dublin of the said Board, where a Copy of the proposed Scheme shall be deposited and may be inspected, and every such Notice shall require any Objections to such Scheme to be stated or transmitted to the said Board or their Secretary within One Month from the Time when the Notice shall have been given.

Board may alter or modify or approve of Schemes.

85. If after such Notice as aforesaid any Objections or Suggestions shall be made, the Board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the Scheme according to any such Objections or Suggestions; and after all such Objections and Suggestions, if any, have been disposed of, or if no such Objections or Suggestions shall have been made, the Board, in case they shall not think fit to refer such Scheme to an Inspector under the Provision next herein-after contained, may proceed to approve such Scheme, and to certify the same in manner herein-after mentioned.

The Matter of Schemes may be referred to an Inspector for Local Inquiry.

86. Upon the Requisition of any Person interested in the Charity in question (in case the said Board after due Consideration shall be of opinion that there are sufficient Grounds for complying with such Requisition), or in any other Case if the said Board shall consider it desirable, the Matter of any Scheme in question may be referred by the said Board to One of their Inspectors, and such Inspector shall thereupon proceed to make a local Inquiry and Examination into the Matter of the Scheme in question, and for the Purposes of such Inquiry, such Inspector may hold a Sitting or Sittings in some convenient Place in the Parish or One of the Parishes or the District to or in which respectively the Charity in question is wholly or partially situated or is administered, and may take and receive any Evidence and Information, and hear and inquire into any Objections or Questions relating to the Scheme or Charity in question, and may from Time to Time adjourn any such Sitting, and public Notice shall be given by such Inspector of every such Sitting (except an adjourned Sitting) Fourteen Days at the least before the holding thereof, in such other Mode as in the Judgment of the said Board shall be sufficient to ensure Publicity.

Inspectors to report the Result of Inquiry to the Board.

87. Every Inspector to whom any such Matter shall be referred shall report in Writing to the said Board the Result of his Inquiry, and whether in his Opinion the Scheme in question should be approved with or without any Alteration or Modification thereof, and such Report shall specify or indicate the Alterations (if any) which such Inspector shall consider desirable, with the Reasons for the same,

and

and also the Nature of the Objections (if any) which shall have been made to the Scheme, and the Opinion of the said Inspector thereon, and the said Board shall consider such Report, and if, as the Result of such Report or after further Inquiry, they shall be satisfied therewith, they may proceed to approve the Scheme in question either with or without any Alteration, and to certify the same in manner herein-after mentioned.

Schemes when approved to be certified by the Board.

88. Every Scheme to be approved by the said Board shall be certified by them, and for that Purpose shall be embodied in a Certificate to be made by the said Board, and sealed with their Seal; and in every Case a Copy of such Certificate shall be deposited in some convenient Place within the Parish or One of the Parishes or the District in which the Charity in question shall wholly or partially be situated or administered, and at the Office in Dublin of the said Board, and a Notice shall also be given, in such Manner as the Board shall direct, which Notice shall refer to the Certificate so deposited, and shall state the Intention of the Board to proceed with the Scheme thereby certified.

Copy of such Certificate to be deposited in the Parish or District, and Notice given.

Restrictions of Charges and Leases of Charity Estates.

89. It shall not be lawful for the Trustees or Persons acting in the Administration of any Charity to make or grant, otherwise than with the express Authority of Parliament, under any Act already passed or which may hereafter be passed, or of a Court or Judge of competent Jurisdiction, or according to a Scheme legally established, or with the Approval of the Board, any Sale, Mortgage, or Charge of the Charity Estate, or any Lease thereof in reversion after more than Three Years of any existing Term, or for any Term of Life, or in consideration wholly or in part of any Fine, or for any Term of Years exceeding Twenty-one Years.

Board may authorize Payment for Equality of Exchange or Partition.

90. The Board may authorize the Application of any Funds belonging to any Charity in Payments for Equality of Exchange or Partition, or in Payment of any Expenses incident thereto, or may authorize the Trustees to raise any Money for such Purposes by Mortgage of any Land acquired on such Exchange or Partition, or belonging to the Charity.

Power to ascertain Lands charged with Rents to Charities.

91. Where there shall be Uncertainty as to the specific Part of any Lands out of which any Rent, Annuity, or other periodical Payment, not exceeding the yearly Sum of Ten Pounds, charged upon some Part of the same Lands, for the Benefit of a Charity, shall be payable, it shall be lawful for the Board, upon the Application of the Trustees or Persons acting in the Administration of the Charity, and with the Consent of the Persons interested, according to the aforesaid Definition of "Persons interested," in the same Lands to determine by their

Order the Land charged with such Rent, Annuity, or other periodical Payment, which shall thenceforth stand charged with such Rent, Annuity, or periodical Payment accordingly, to the Exoneration of the Residue of such Lands therefrom.

Expenses of Exchanges and Partitions, and determining Application of Charges.

92. The Expenses incident to the Application for and procuring of any such Order of Exchange or Partition, or Order determining the Land charged with any Rent, Annuity, or periodical Payment, shall be paid by the Trustees or Administrators of the Charity, or by the other Parties to such Transactions, or by both, as the Board may direct.

Incorporated Charities and Trustees for Charities may reinvest in Land.

93. Any incorporated Charity, or the Trustees of any Charity, whether incorporated or not, may, with the Consent of the Board, invest Money arising from any Sale of Land belonging to the Charity, or received by way of Equality of Exchange or Partition, in the Purchase of Land, and may hold such Land, or any Land acquired by way of Exchange or Partition, for the Benefit of such Charity, without any Licence in Mortmain.

Order of Board for Investments to be carried into effect, and Costs to be raised.

94. All Orders of the Board for the Investment of Money coming to any Charity or the Trustees thereof on any Sale, Exchange, or Partition shall be carried into effect by the Trustees or Persons administering the Charity; and all Monies which the Board shall order to be provided out of any Income or Property of a Charity for the Payment of the Costs of any such Transaction shall be provided or raised by the Trustees or Administrators of the Charity, and applied accordingly.

Board may direct Official Trustees to convey Lands, &c.

95. It shall be lawful for the Board to authorize or order and direct the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds respectively to convey Lands, and to assign, transfer, and pay over Stocks, Funds, Monies and Securities, as the Board shall think expedient.

Leases, &c. to be valid notwithstanding disabling Acts.

96. All Leases, Sales, Exchanges, Partitions, and Transactions authorized by the Board under this Act shall be valid and effectual, notwithstanding any disabling Act applicable to the Charity the Estates whereof shall be the Subject of any such Transaction.

Board may approve Schemes for letting Charitable Property.

97. It shall be lawful for the Board to prepare, and under their Seal to approve of, any Scheme for the letting of the Property or any Part of the Property of any Charity; and all Leases granted by any Trustees or Persons acting in the Management of any Charity, pursuant to or in conformity with such Scheme, shall be valid.

98. The

Power to refer Bills of Costs in Charity Matters to Taxation.

98. The Board may order the Bill of Costs or Charges claimed by any Attorney or Solicitor on account of Business conducted or transacted by him on behalf of any Charity, or the Trustees thereof, to be examined and taxed by the Taxing Masters of the Court of Chancery, or by the proper Taxing Officers of any of the Superior Courts at Dublin, who shall proceed to examine and tax the same Bill accordingly; and if the same shall be reduced upon such Taxation by the amount of One Sixth Part or more of the Amount thereof, the Costs of the Taxation shall be paid by such Attorney or Solicitor, but otherwise out of the Funds of the Charity by the Trustees thereof; and the Board may, after being satisfied as to any Bill that it contains exorbitant Charges, order any such Bill to be so taxed, notwithstanding that the same may have been paid by the Trustees of the Charity at any Period not more than Six Calendar Months previously to such Order; and any Amount taxed off any such paid Bill shall be a Debt due from the Attorney or Solicitor to the Trustees of the Charity, and shall be forthwith paid by him to such Trustees accordingly.

Deeds, &c. relating to Charities may be enrolled at the Office, and Copies to be Evidence.

99. Any Deed, Will, or Document relating to any Charity may be enrolled by the Board in Books to be provided and kept by them for that Purpose at their Office, and a Copy of any such Deed, Will, or Document made from such Books, and certified under the Hand of the Secretary or One of the Commissioners, shall be received as Evidence of the Contents of the same Deed, Will, or Document.

Annual Report to be laid before Parliament, which shall set forth all the Schemes approved.

100. The said Board shall in the Month of February in every Year make a Report to Her Majesty of all their Proceedings during the preceding Year up to the Thirty-first Day of December then last, and such Report shall, within Fourteen Days after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within Fourteen Days after the Meeting thereof; and in such Report the said Board shall specially distinguish and set forth in full all the Schemes (if any) approved by them under the Provisions lastly herein-before contained, together with the Grounds of such their Approval, and the Objections (if any) which have been made thereto, and all Proceedings had in respect of such Objections and the Grounds on which any such Objections have been overruled; and in case it shall be enacted by any Act of Parliament that any such Scheme or Schemes so certified shall be confirmed and take effect, either with or without any Alterations or Modifications thereof respectively, every such Act shall be deemed a Public General Act.

Accounts to be laid before Parliament.

101. The Official Trustees of Charitable Funds shall lay before Parliament annually, on or before the Fourteenth Day of February,

or as soon as practicable after Parliament shall be sitting, an Account of the total Amount of the Capital Stock, Shares, and Securities transferred to them in the Year ending the Thirty-first Day of December preceding, and of the total Amount of Monies, other than Dividends or Interest, paid to them or to their Account during the same Period, and of the Investment thereof, and of the Capital Stock, Shares, and Securities sold or re-transferred by them during the same Period, and of the aggregate Amount of the Capital Stock, Shares, Funds, and Securities, and the Balance of Cash, held by them on such preceding Thirty-first Day of December.

Power for Magistrates to give Possession of School Buildings and Property held over by Officers or Recipients of Charities.

102. Where any School Master or Mistress or other Officer, or any Recipient of the Benefit of a Charity, being in possession by virtue of his or her Office, or as such Recipient, of any House, Buildings, Land, or Property of the Charity, shall have been removed from or shall cease to hold such his or her Office, or his or her Place as such Recipient, but he or she, or any Person claiming under him or her, shall refuse or neglect to relinquish the Possession of such House, Buildings, Land, or Property within One Calendar Month next thereafter, to his or her Successor, or to the Trustees or Persons acting in the Administration of the Charity, or as they shall direct, it shall be lawful for any Two or more Justices of the Peace acting for the District, Division, or Place in which such House, Buildings, Land, or Property shall be situate, in Petty Sessions assembled, and they are hereby required, on the Complaint of the said Trustees or Administrators, and on the Production of an Order of the said Board certifying such School Master or Mistress or other Officer or Recipient to have been duly removed from or to have ceased to hold his or her Office or Place, (which Order under the Seal of the said Commissioners shall be conclusive Evidence of the Facts thereby certified, and of the Jurisdiction of the said Commissioners to make such Order for all the Purposes of this Enactment, and shall afford a complete Indemnity to all Persons acting thereunder,) to issue a Warrant under the Hands and Seals of such Justices to any Constables or Peace Officers of the same District, Division, or Place, commanding them, within a Period to be thereby appointed, not being less than Ten or more than Twenty-one clear Days thereafter, to enter into the Premises, and deliver Possession thereof to the said Trustees or Administrators, or their Nominee or Agent, and to remove therefrom such former School Master or Mistress, or other Officer or Recipient, and all Persons claiming in his or her Right.

Power to acting Trustees to grant Leases.

103. The acting Trustees of every Charity, or the Majority of them, provided that such Majority do not consist of less than Three Persons, shall have at Law and in Equity Power to grant all such Leases

Leases or Tenancies of Land belonging thereto, and vested in the Official Trustee of Charity Lands, as they would have Power to grant in the due Administration of the Charity if the same Land were legally vested in themselves; and all Covenants, Conditions, and Remedies contained in or incident to any Lease or Tenancy so granted shall be enforceable by and against the Trustees or Persons acting in the Administration of the Charity for the Time being, and their Alienees or Assigns, in like Manner as if such Lands had been legally vested in the Trustees granting such Lease or Tenancy at the Time of the Execution thereof, and had legally remained in or had devolved to such Trustees or Administrators for the Time being, their Alienees or Assigns, subject to the same Lease or Tenancy.

Accounts of Trustees of Charities to be delivered to the Board.

104. The Trustees or Persons acting in the Administration of every Charity shall, in Books to be kept by them for that Purpose, regularly enter or cause to be entered full and true Accounts of all Money received and paid respectively on account of such Charity, and shall, on or before the Twenty-fifth Day of March One thousand eight hundred and sixty-four, prepare and make out and transmit to the Board an Account of the Endowments then belonging to the Charity, showing in the Case of Realty not in hand the Manner in which the same is let or occupied, and in the Case of Personalty the existing Investment or Employment thereof, and in what Names such Investments are made; and such Trustees or Administrators shall also on or before the Twenty-fifth Day of March next after the Acquisition of any Endowment not included in the foregoing Account prepare and make out, in like Manner, and transmit to the Board, a similar Account of such last-mentioned Endowment, and in case of any Alienation, or Charge, or Transfer, of any Real or Personal Estate of the Charity, shall on or before the Twenty-fifth day of March then next following transmit to the Board an Account of such Alienation, Charge, or Transfer, and such Trustees or Administrators shall also, on or before the Twenty-fifth day of March in every Year, or such other Day as may be fixed for that Purpose by the Board, or as may have been already fixed for rendering the Accounts thereof required by the principal Act, prepare and make out the following Accounts in relation thereto; (that is to say,)

(1.) An Account of the gross Income arising from the Endowment, or which ought to have arisen therefrom during the Year ending on the Thirty-first Day of December then last, or on such other Day as may have been appointed for this Purpose by the Board:

(2.) An Account of all Balances in hand at the Commencement of the Year, and of all Monies received during the same Year on account of the Charity:

(3.) An Account for the same Period of all Payments:

(4.) An Account of all Monies owing to or from the Charity, so far as conveniently may be:

which Accounts shall be certified under the Hand of One or more of the said Trustees or Administrators, and shall be audited by the Auditor of the Charity, if any; and the said Trustees or Administrators shall, within Fourteen Days after the Day appointed for making out such Accounts, deliver or transmit a Copy thereof to the Commissioners at their Office in Dublin; and every such Copy shall be open to the Inspection of all Persons at all seasonable Hours, subject to such Regulations as to the said Board may seem fit; and any Person may require a Copy of every such Account or of any Part thereof, on paying therefor after the Rate of Twopence for every Seventy-two Words or Figures.

Board may make Orders as to Delivery and Publication of Account by Trustees, &c.

105. The Board may from Time to Time make such Orders as they may think fit in relation to the Delivery or Transmission of the said Accounts, and the Forms of such Accounts, and such Orders shall be executed by all Trustees and Persons from whom the Accounts to which they may relate are required.

Exemptions from the Operation of Act.

106. This Act shall not extend to the University of Dublin, or to any Cathedral or Collegiate Church, or to any Building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in Ireland, and bonâ fide used as a Place of Meeting for Religious Worship; nor shall this Act, for the Period of Two Years from the passing thereof, extend or be in any Manner applied to Charities or Institutions, the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence or Control of Persons of that Persuasion, or to any Friendly or Benefit Society, or Savings Bank, or any Institution, Establishment, or Society for Religious or other charitable Purposes, or to the Auxiliary or Branch Associations connected therewith, wholly maintained by voluntary Contributions, or any Bookselling or Publishing Business carried on by or under the Direction of any Society wholly or partially exempted from this Act, so far as such Business is or shall be carried on by means of voluntary Contributions only, or the Capital or Stock of such Business; and where any Charity is maintained partly by voluntary Subscriptions and partly by Income arising from any Endowment, the Powers and Provisions of the Act shall, with respect to such Charity, extend and apply to the Income from Endowment only, to the Exclusion of voluntary Subscriptions, and the Application thereof; and no Donation or Bequest unto or in trust for any such Charity, as last aforesaid, of which no special Application

Provisions as to Charities supported partly by voluntary Subscriptions.

Application or Appropriation shall be directed or declared by the Donor or Testator, and which may legally be applied by the governing or managing Body of such Charity as Income in aid of the voluntary Subscriptions, shall be subject to the Jurisdiction or Control of the said Board, or the Powers or Provisions of this Act; and no Portion of any such Donation or Bequest as last aforesaid, or of any voluntary Subscription, which is now or shall or may from Time to Time be set apart or appropriated and invested by the governing or managing Body of the Charity, for the Purpose of being held and applied or expended for or to some defined and specific Object or Purpose connected with such Charity, in pursuance of any Rule or Resolution made or adopted by the governing or managing Body of such Charity, or of any Donation or Bequest in aid of any Fund so set apart or appropriated for any such Object or Purpose as aforesaid, shall be subject to the Jurisdiction or Control of the said Board or the Powers or Provisions of this Act; and nothing in this Act shall subject the Funds or Property of any Missionary or other similar Society, or the Missionaries, Teachers, or Officers of such Society, or of any Branch thereof, which Funds or Property shall not be within the Limits of England or Wales, to the Jurisdiction of the said Board: Provided always, that the said Exemption shall not extend to any Cathedral, Collegiate, Chapter, or other Schools.

Exempted Charities may petition Commissioners to have Benefit of Act.

107. It shall be lawful for any of the Charities exempted from the Operation of this Act, by Order or Resolution duly made in conformity with the Constitution or Rules of such Charity (and which in that Case only shall be binding), to apply by Petition to the Commissioners to have the Benefit of this Act either generally or as to any of the Provisions herein contained; and such Petition shall be under the Seal of such Charity if incorporated, and if not, then under the Hands of the major Part of the Trustees and governing Body of such Charity; and in such Case it shall be lawful for the Commissioners, if they shall think fit, to make an Order in conformity with such Application, and such Charity shall thenceforth be entitled to and be bound by all the Provisions of this Act, if admitted generally thereto, or by such of the Enactments thereof as shall be mentioned and specified in such Order of the Commissioners, but in either Case in the same Manner as if such Charity had not been exempted from this Act, or such Exemption had not extended to the Enactments specified in such Order.

Disputes among Members of exempted Charities may be re-

108. Provided also, That if any Question or Dispute shall arise among the Members of any Charity in relation to any Office, or the Fitness or Disqualification of any Trustee or Officer, or his Election or Removal, or generally in relation to the Management

ferred to Arbitration of Commissioners.

of the Charity, it shall be lawful for Two Thirds of the Members present at any Special Meeting, duly convened by Notice for the Purpose in the same Manner in which Meetings of such Charity are by the Rules thereof appointed to be held and convened, to refer such Question or Dispute to the Arbitration of the Commissioners, who shall accept such Reference and act therein as Arbitrators, and their Award shall be final, and may be made a Rule of Her Majesty's High Court of Chancery.

Indemnity to the Bank of Ireland and others.

109. Every Order made under this Act under which any Stock, Shares, Securities, or Monies shall be transferred or paid to or deposited with the Trustees of any Charity, or the Official Trustees of Charitable Funds, shall afford a complete Indemnity to the Governor and Company of the Bank of Ireland, and to all Companies and Persons by whom respectively any such Transfer, Payment, or Deposit shall be permitted or made, for permitting or making the same, and the said Governor and Company and other Companies and Persons shall be required to give effect or to conform to such Order, and it shall not be necessary for them to inquire concerning the Propriety of the same Order, or the Jurisdiction under which the same shall purport to be made.

Commissioners, &c. exempted from serving on Juries.

110. Every Commissioner, Secretary, and Inspector acting under or employed for the Purposes of the said Acts shall be exempt from serving on Juries while he shall be so acting or employed.

Interpretation of Terms.

111. In the Construction of this Act, except where the Context or other Provisions of the Act may require a different Construction, the Expression "Court of Chancery" shall mean and include the Master of the Rolls and every Judge of the Court of Chancery in Ireland; the Expression "Lord Chancellor" shall mean and include the Lord Chancellor of Ireland and the Lord Keeper and Commissioners of the Great Seal of Ireland for the Time being; the Expression "Her Majesty's Attorney-General" shall mean Her Majesty's Attorney-General for Ireland; the Expression "Charity" shall mean every endowed Foundation and Institution taking or to take effect in Ireland, or as to which, or the Administration of the Revenues or Property whereof, the Court of Chancery has or may exercise Jurisdiction; the Expression "Trustee" of any Charity shall mean and include every Person and Corporation seised or possessed of or entitled to any Real or Personal Estate, or any Interest therein, in trust for or for the Benefit of such Charity, or all or any of the Objects or Purposes thereof, and every Member of any such Corporation; and the Expression "the Board" shall mean the said Charity Commissioners sitting as a Board under this Act; and the

the Expression "Endowment" shall mean and include all Lands and Real Estate whatsoever, of any Tenure, and any Charge thereon, or Interest therein, and all Stocks, Funds, Monies, Securities, Investments, and Personal Estate whatsoever, which shall for the Time being belong to or be held in trust for any Charity, or for all or any of the Objects or Purposes thereof; and the Expression "Land" shall extend to and include Manors, Messuages, Buildings, Tenements, and Hereditaments, corporeal and incorporeal, of every Tenure and Description.

Extent of Act.

112. This Act shall only extend to Ireland.

Short Title.

113. This Act may be cited as "The Charitable Trusts (Ireland) Act, 1863."

SCHEDULE to which Act refers.

ACTS TO BE REPEALED.

3	Geo.	3.	cap. 18.	Ireland.
40	„	„	75.	Do.
7 & 8	Vict.	„	97.	Do.

Charitable Trusts (Ireland).

A

BILL

For better Administration of Charitable Trusts in Ireland.

(*Prepared and brought in by Mr. Hassard and Mr. Longfield.*)

Ordered, by The House of Commons, *to be Printed,* 3 *July* 1863.

[Bill 204.]

Under 3 *oz.*

11 *June* 1863. 26 Vict.

A

BILL

TO

Further amend the Law relating to the Conveyance of Land for Charitable Uses.

WHEREAS by an Act passed in the Twenty-fourth Year of Her present Majesty, intituled "An Act to amend the "Law relating to the Conveyance of Land for Charitable "Uses," it was amongst other things enacted, that "no Deed or "Assurance theretofore made, and under which Possession was then "held for any Charitable Uses whatsoever, of any Hereditaments of "any Tenure whatsoever, or of any Estate or Interest therein, made "really and bonâ fide for a full and valuable Consideration actually "paid at or before the making or perfecting such Deed or Assurance, "or reserved by way of Rent, Rentcharge, or other annual Payment, "or partly paid at or before the making or perfecting such Deed or "Assurance, and partly reserved as aforesaid, without Fraud or Collusion, should for any Reason whatever be deemed to be null and void "within the Meaning of the first therein recited Act, (being an Act "passed in the Ninth Year of His late Majesty King George the "Second, intituled 'An Act to restrain the Disposition of Lands, "'whereby the same become inalienable') if such Deed or Assurance "was made to take effect for the Charitable Uses intended immediately from the making thereof, and without any Power of Revocation, Preamble.

" tion, and had been at any Time prior to the passing of that Act, " or should be within Twelve Calendar Months next after the passing " of that Act enrolled in Her Majesty's High Court of Chancery :" And whereas by another Act, passed in the Session of the Twenty-fifth and Twenty-sixth Years of the Reign of Her present Majesty, intituled " An Act to extend the Time for making Enrolments, under " an Act passed in the last Session of Parliament, intituled ' An Act " ' to amend the Law relating to the Conveyance of Land for Chari-" table Uses,' and to explain and amend the said Act,' the Time for making Enrolments under the said first-recited Act was extended till the Seventeenth Day of May One thousand eight hundred and sixty-four ; and it was thereby further provided, that in all Cases in which Money should have been really and bonâ fide expended before the passing of that Act in the substantial and permanent Improvement, by building or otherwise, for any Charitable Use, of Land of any Tenure whatsoever, of which Possession was then held by virtue of any Deed or Assurance conveying or purporting to convey the same, or declaring any Trusts or Trust thereof for such Charitable Use, all Money so expended should be deemed, for the Purposes of the said Act, equivalent to Money actually paid by way of Consideration for the Purchase of the said Land : And whereas it is expedient that the said Acts should be further amended : Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Deeds by which Lands are demised for Charitable Uses to take effect from the making thereof.

1. Every Deed or Assurance by which any Land shall have been demised for any Term of Years for any Charitable Use shall, for all the Purposes of the said recited Acts, be deemed to have been made to take effect for the Charitable Use thereby intended immediately from the making thereof, if the Term for which such Land shall have been thereby demised was thereby made to commence and take effect in possession at any Time within *One Year* from the Date of such Deed or Assurance.

Expenditure in substantial Improvements to entitle Charity to Benefit of first-recited Act.

2. Any Expenditure in the substantial and permanent Improvement of any Land held for any Charitable Use, bonâ fide made within the Meaning of the said last-recited Act, shall be deemed sufficient to entitle the Charity for which such Land is held to the Benefit of the said first-recited Act, if the same would have been in all other respects entitled thereto, although such Expenditure may not have been made at or before the making or perfecting the Deed or Assurance under which such Land is held for such Charitable Use, and although no Contract or Stipulation for that Purpose may have been contained in such Deed or Assurance.

LORDS AMENDMENT

TO THE

CHARITABLE USES BILL.

Leave out Clause 2.

[Bill 275.]

LORDS' AMENDMENT

TO THE

CHARITABLE USES BILL.

Ordered, by The House of Commons, *to be Printed*,
25 *July* 1863.

[Bill 275.]

Under 1 *oz.*

Church Building and New Parishes Acts Amendment Bill.

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A

B I L L

TO

Consolidate and amend the Church Building and New Parishes Acts.

WHEREAS it is expedient to consolidate and amend the principal Provisions of certain Acts that have been passed for promoting the building of additional Churches in England, and for other Purposes connected therewith; and to consolidate and amend the New Parishes Acts, of 1843, 1844, and 1856: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

PART I.

PRELIMINARY.

1. This Act may be cited as "The Church Building and New Parishes Act, 1863." Short Title of Act.

2. This Act shall come into operation on the *First Day of November One thousand eight hundred and sixty-three.* Commencement of Act.

3. This Act shall extend only to that Part of the United Kingdom called England, and to the Isle of Man. Extent of Act.

 4. From

Repeal of the Church Building and New Parishes Acts.

4. From and after the *Commencement of this Act*, the Acts mentioned in the Schedules (A.) and (B.) to this Act shall be repealed to the Extent mentioned in such Schedules, except as to Acts done, Proceedings had, and Rights acquired, by virtue thereof, before the passing of this Act.

Interpretation of certain Terms in this Act.

5. In the Construction of this Act the following Words and Expressions shall, if not inconsistent with the Context, have the Meanings hereto assigned to them; that is to say, the Word

"Acre:" "Acre" shall mean Statute Acre:

"Bishop:" "Bishop" shall mean Bishop of the Diocese for the Time being, and shall comprehend Archbishop:

"Body" or "Person:" "Body or Person" shall include any Body Politic, Corporate, or Collegiate, whether aggregate or sole, any public Company, as well as One or more Individuals, their Heirs, Successors, Executors, Administrators, and Assigns:

"Church:" "Church" shall mean and include any consecrated Church or Chapel belonging to the United Church of England and Ireland:

"Churchwarden:" "Churchwarden" shall include "Chapelwardens" or "other Persons discharging Duties of Churchwardens" under this Act:

"Computation of Time:" Where any particular Number of Days is prescribed by this Act for the doing of any Act, or for any other Purpose, the same shall be reckoned, in the Absence of any Expression to the contrary, exclusive of the first and inclusive of the last Day, unless the last Day shall happen to fall on a Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, or a Day appointed for a Public Fast or Thanksgiving, in which Case the Time shall be reckoned exclusive of that Day also:

"Diocese:" "Diocese" shall include all Places to which the Jurisdiction of any Bishop extends under and for the Purposes of the Act of the Session holden in the First and Second Years of the Queen, Chapter One hundred and six:

"District Church:" "District Church" shall mean any Church to which a District has been assigned under the former Church Building Acts or New Parishes Acts, or under this Act:

"Former Church Building Acts:" "Former Church Building Acts" shall mean and include all or any of the Acts mentioned or described in the Schedule (A.) to this Act:

"Former New Parishes Acts:" "Former New Parishes Acts" shall mean and include all or any of the Acts mentioned or described in the Schedule (B.) to this Act:

"Give" or "grant:" The Word "give" or "grant," when applied to any Gift or Grant of Real or Personal Estate by any Body or Person, shall mean the Execution by such Body or Person of every necessary or suitable

suitable Act or Assurance for giving or granting any Land or Property whereof or whereto such Person is seised or entitled in possession, remainder, or contingency either for the whole or any less Estate, as the Case may be, of such Body or Person therein, together with the Performance of all Formalities required by Law to the Validity of such Act or Assurance, including the Acts to be performed by married Women and Tenants in Tail in accordance with the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, "and the Substitution of more simple Modes of Assurance," and including also Surrenders and other Acts which a Tenant of Customary or Copyhold Lands can himself perform preparatory to or in aid of a complete Assurance of such Customary or Copyhold Lands:

"Her Majesty" shall include the Heirs and Successors of Her Majesty: "Her Majesty:"

"Incumbent" shall mean Rector, Vicar, or Perpetual Curate: "Incumbent:"

"Land" shall include Messuages, Tenements, and Hereditaments of any Tenure, and any Part or Share of an Estate or Interest thereof or therein, unless where there are Words to restrict the Meaning to Tenements or Hereditaments of some particular Tenure: "Land:"

"Lease" and "Underlease" shall mean any Instrument in Writing, whether under Seal or not, containing a Contract of Tenancy in respect of any Lands, in consideration of a Rent or Return, and shall include a Contract for a Lease or Underlease: "Lease" and "Underlease:"

"New Parish" shall include any distinct and separate Parish formed under the Former Church Building Acts or the Former New Parishes Acts or this Act; any District Parish formed under the former Church Building Acts; any District which has become a new Parish under the "Former New Parishes Acts," or shall become a new Parish under this Act; and also any Chapelry, Township, or District, endowed or erected into a separate Parish, under the former Church Building Acts or this Act: "New Parish:"

"Offices of the Church" shall mean and include the Administration of the Sacrament of Baptism, Publication of the Banns of Matrimony, and the Solemnization and Performance of Marriages, Churchings, and Burials: "Offices of the Church:"

"Parish" shall include every Place which has exclusive Parochial Rights and Privileges in all Matters Ecclesiastical, and is liable to all Parochial Charges: "Parish:"

"Parish, District, or Place" shall include any Parish, Ancient Chapelry, or Extra-parochial Place, and also any distinct and separate Parish, District Parish, District Chapelry, Consolidated Chapelry, particular District, separate parochial District, with or without "Parish, District, or Place:"

without a specified Church, and any new Parish, whether formed or constituted under the former Church Building Acts, the former New Parishes Acts, or this Act; and shall also include any Parish, District, or Place, or Part or Parts thereof, united for Ecclesiastical Purposes with any other Parish, District, or Place:

"Property:" "Property" shall include every Description of Real and Personal Property, Goods, Money, Debts, and Legacies, and all Deeds and Instruments relating to or evidencing the Title or Right to any Property, or giving a Right to recover or receive any Money or Goods; and such Word "Property" shall also denote and include not only such Real and Personal Property as may have been the original Subject of a Trust, but also any Real or Personal Property into which the same may have been converted or exchanged, and the Proceeds thereof respectively, and anything acquired by such Proceeds:

"Spiritual Person:" "Spiritual Person" shall be taken to include Archbishop, Bishop, Dean, Rector, Vicar Impropriate, Perpetual Curate, Curate, Clerk in Holy Orders, and every Ecclesiastical Corporation, whether Aggregate or Sole:

"The accustomed Fees:" "The accustomed Fees" shall mean and include the accustomed Fees, Dues, Oblations, Offerings, Mortuaries, or other Profits and Emoluments belonging to the Office of Incumbent, or incident to the Cure of Souls within any Parish, District, or Place:

"The Commissioners:" "The Commissioners" shall mean "the Ecclesiastical Commissioners for England:"

"The Governors:" "The Governors" shall mean "the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy:"

"Tithe:" "Tithes" shall mean and include all commuted or uncommuted Tithes, Rentcharges in lieu of Tithes, Portions and Parcels of Tithes, and all Moduses, Compositions Real, and prescriptive and customary Payments:

"United Church." "United Church" shall mean the "United Church of England and Ireland:"

"Vestry: "Vestry" shall mean "Meetings of Persons in any Parish, Dis- "trict, or Place possessing the Powers of Vestry in Ecclesi- "astical Matters," or in an Extra-parochial Place, or in a District having no Churchwardens, "the Persons who, if the "same was a Parish, would be entitled to vote in Vestry in "Ecclesiastical Matters:"

"Will:" "Will" shall mean and comprehend any Will or Testamentary Paper, including under such Definition the Execution by any such Will, Testament, or Testamentary Paper, of any Appointment in pursuance of any Power.

PART

PART II.

Building of New Churches.

1. *Churches built and endowed by private Founders or Subscribers.*

Any Body or Person may endow a Church. 1 & 2 W. 4. c. 38. s. 5. 14 & 15 Vict. c. 97. ss. 7. 15. 1 & 2 Vict. c. 107. s. 5.

6. Any Body or Person may, subject to the Restrictions herein-after contained, build, endow, and acquire in perpetuity the Patronage of a Church in any Parish, District, or Place.

With Consent of Bishop, Commissioners may, subject to Notices to the Patron and Incumbent, declare perpetual Right of Patronage to be in the Body or Person building and endowing a new Church. 1 & 2 W. 4. c. 38. s. 5. 1 & 2 Vict. c. 107. s. 5. 14 & 15 Vict. c. 97. ss. 7. 15.

7. If any Body or Person, either with the Sanction of the Commissioners or to their Satisfaction, shall have endowed or shall endow any Church or any Building intended to be consecrated as a Church (which Building is herein-after included in the Word Church), already or hereafter to be built, purchased, or otherwise acquired by such Body or Person, and shall provide a competent Fund for the Repairs of such Church, the Commissioners may, with the Consent of the Bishop, signify in Writing their Intention of declaring that the Right of nominating a Minister to such Church or to such Building, after the Consecration thereof, shall be for ever in the Body or Person so having built, purchased, or acquired the same, or in such Nominees or Trustees as is herein-after provided.

Nature of Application to the Commissioners. 14 & 15 Vict. c. 97. ss. 11. 29.

8. Application in Writing shall be made by any Body or Person having built, purchased, or acquired, or proposing to build, purchase, or acquire, and endow as aforesaid, such Church, either for themselves or their Nominees, or, in case of a Church built by Subscription, by the major Part in Value of the Subscribers thereto of not less than *Fifty Pounds* each, or by some Person authorized on his or their Behalf respectively, to the Commissioners, setting forth the estimated Amount of the Population of the Parish, District, or Place in which such Church is or is proposed to be built, the estimated Amount of Accommodation provided in the several consecrated Churches within such Parish, District, or Place, and the estimated Amount of the Population of the District (if any District be proposed) for which such Church is intended to provide, and the Accommodation provided or proposed to be provided in such Church, and its Distance from the consecrated Churches in such Parish, District, or Place.

Copies of Application to be sent by the Commissioners to Patron and Incumbent. 14 & 15 Vict. c. 97. ss. 11. 29.

9. Copies of such Application, or Notices containing the like Information, shall in every such Case be sent by the Commissioners to the Patron and Incumbent respectively of such Parish, District, or Place, or of any Parish, District, or Place out of which any Part of the District, if any, proposed to be assigned for such Church, is to be taken, in order to afford such Patrons and Incumbents respectively the Opportunity of laying before the Commissioners, for

their Consideration, any Statement or Objections relating thereto; and such Copies or Notices may be served personally on or directed and sent by Post to such Parties respectively.

Time allowed to Patron and Incumbent to give Consent. 14 & 15 Vict. c. 97. ss. 11. 29.

10. The Commissioners shall not declare, or signify their Intention of declaring, such Right of Nomination, until the Expiration of *Three* Months next after such Copies or Notices have been so sent, unless in the meantime such Patron and Incumbent, or, as the Case may require, each such Patron and Incumbent, consent thereto.

District proposed may be varied. 14 & 15 Vict. c. 97. ss. 11. 29.

11. The District, if any, proposed in such Application to be assigned to such Church may be subsequently varied, with the Consent of such Patron and Incumbent, or each such Patron and Incumbent, at any Time before the Consecration of such Church or Assignment of such District, without any fresh Copies of Application or Notices being required to be served on or sent to such Parties respectively.

Certain Notices may be served on Patron alone, if there be no Incumbent. 1 & 2 Vict. c. 107. s. 2.

12. Where such Notices are required to be sent to or served upon the Patron or Incumbent, a Notice to the Patron shall be sufficient in those Cases where, at the Time such Notices are required to be sent or served, there shall be no Incumbent of the Parish, District, or Place in which such Church is built or proposed to be built and endowed, and where such Parish, District, or Place shall have remained without an Incumbent for the Space of *Twelve* Months.

How Notices shall be sent when Patrons are numerous. 14 & 15 Vict. c. 97. s. 12.

13. If the Patronage of any such Parish, District, or Place be vested in and exercised by the Inhabitants generally of such Parish, District, or Place, or by any Body or Class of Persons exceeding Five in Number, it shall be sufficient to deliver or send such Copies of Applications or Notices to the Churchwardens of such Parish, District, or Place, and to Two or more of such Patrons, and such Two Patrons shall for the Purposes of this Act be the Patrons of such Parish, District, or Place.

If no Incumbent in an Extra-parochial Place, Notice to Bishop sufficient. 3 & 4 Vict. c. 60. s. 16.

14. If such Church has been or is proposed to be built and endowed in any Extra-parochial Place where there is no Incumbent, it shall be sufficient to deliver such Copies of Application or Notices to the Bishop alone.

Preference to be given to Patron binding himself to build and endow to the Satisfaction of

15. If any Body or Person who may be the Patron of the Parish, District, or Place in which it is proposed to build, purchase, or acquire such Church shall, within *Two* Months after such Notice shall have been served or sent as herein-before mentioned, bind himself by a sufficient Security to the Commissioners that he will,

to

to the Satisfaction of the Bishop, within *Two* Years thereafter, build or purchase, and finish and endow, an additional Church in such Parish, District, or Place, and provide a competent Fund for the Repairs of such Church, then such Body or Person shall be preferred to any other Body or Person so intending to build, purchase, or acquire such additional Church.

the Commissioners and Bishop, 1 & 2 W. 4. c. 38. s. 7. 14 & 15 Vict. c. 97. ss. 7. 15. 19.

16. If there be a Population of not less than *One thousand* Persons in any Parish, District Parish, District Chapelry, or any Extra-parochial Place within *Two* Miles from an existing Church, and if there be any Body or Person desirous of enlarging the Church Accommodation therein, and who shall, with the Consent of the Vestry, signify such Desire to the Commissioners, and shall also bind themselves in a sufficient Security to the Commissioners that they will within *Two* Years from the Date of declaring such Desire enlarge the existing Church so as to add *One Fourth* to its then existing Church Accommodation, so that more than *One Third* of the Parishioners shall be accommodated, then such Body or Person, having complied with such Conditions, shall be preferred to any Body or Person proposing under this Act to build and endow any new Church in such Parish, Chapelry, or Extra-parochial Place.

Preference to be given to Enlargement of Churches, in certain Cases. 1 & 2 W. 4. c. 38. s. 8.

17. Before the Commencement of the Enlargement of the existing Church, Plans thereof shall be laid before the Commissioners for their Approbation.

Plans for Enlargement of Church to be laid before the Commissioners. 1 & 2 W. 4. c. 38. s. 8.

18. A Certificate from an Architect as to the due Execution of such Plans shall be sent to the Commissioners on the Completion of such Enlargement.

Certificate of Completion required. 1 & 2 W. 4. c. 38. s. 8.

19. The Endowments provided for any Church, the Patronage whereof is vested under this Act in the Body or Person building, purchasing, or acquiring and endowing the same, or in their Nominees, or for the Repair Fund thereof, whether a Particular District is assigned to such Church or not, may be vested in the Commissioners, or in such Trustees, not exceeding *Five*, as the Commissioners direct.

Endowments to be vested in Commissioners or Trustees. 14 & 15 Vict. c. 97. s. 8.

20. Such Endowment, either for the Church or the Repair Fund, shall be of a permanent Character, consisting of all or any of the following Descriptions of Property, namely, Land, Tithes, Rent-charges, and other Tenements or Hereditaments, Money charged on Land or invested in the Funds, or of Money to be laid out in Lands or other Hereditaments; and such Endowment and Repair Fund shall be exclusive of and in addition to the Pew Rents (if any) of such Church, and shall be valid notwithstanding the Statutes of Mortmain.

Nature of Endowment. 3 & 4 Vict. c. 60. ss. 2. 15. 14 & 15 Vict. c. 97. s. 8.

Additional Endowments may be made. 3 & 4 Vict. c. 60. s. 17.

21. An additional permanent Endowment of a like Character may at any Time be made, either for such Church or for the Repair Fund, whether a District shall have been assigned to such Church or not.

Not to be exempted from Mortmain Acts if Endowments amount to more than 300*l.* 3 & 4 Vict. c. 60. s. 17.

22. Nothing herein contained shall authorize the making of any such additional or original Endowment for the Use or Benefit of such Church, without the same being subject to the Provisions of the Statutes of Mortmain, in any Case in which the total Amount of the Endowments shall exceed the clear yearly Value of *Three hundred Pounds*, such Value to be ascertained, if required, in the Manner herein-after provided in Part X. of this Act.

Commissioners may declare Trusts of Endowment and Repair Fund. 14 & 15 Vict. c. 97. s. 8.

23. The Commissioners may from Time to Time declare such Trusts as they may think fit in respect of such Endowment and Repair Fund, and for the Sale or Conversion thereof, and Re-investment of the Produce either in Land or in Government Securities, with Powers of granting Building or other Leases, and all other Powers for the due Administration of such Endowment and Repair Fund, and Powers for the Appointment of new Trustees.

Nomination may be vested in the Body or Person building or endowing. 1 & 2 W. 4. c. 38. s. 19. 3 & 4 Vict. c. 60. s. 9. 14 & 15 Vict. c. 97. s. 9.

24. After the Church so built, purchased, or acquired has been finished and fitted up for the Performance of Divine Service, and endowed, the Commissioners may, by an Instrument under their Common Seal, the Bishop being a consenting Party thereto, declare the Right of perpetual Nomination to such Church to be vested in the Body or Person so having built, purchased, or acquired and endowed the same, or in their or his Nominee, or such Trustees to be named in such Instrument as may be signified to the Commissioners before the Execution of such Instrument by the Commissioners.

Where Nomination is to be in Trustees to be named by Subscribers. 3 & 4 Vict. c. 60. s. 11. 14 & 15 Vict. c. 97. s. 9.

25. Where such Church has been built, purchased, and endowed by Subscription, then such Right of perpetual Nomination may be vested in such Body or Person, or such Trustees to be named in such Instrument, as the major Part in Value of the Subscribers of not less than *Fifty Pounds* each may signify to the Commissioners.

After Execution of such Instrument, Consecration Right of Patronage may be exercised. 1 & 2 W. 4. c. 38. s. 9.

26. After the due Execution of such Instrument, and the Consecration of such Church, such Right of Nomination may be exercised by the Body or Person in whom the same may be vested, without requiring the Consent either of the Patron or the Incumbent of the Parish, District, or Place in which such Church is situate, notwithstanding that Compensation has not been made to them, or that any Local Act of Parliament may have specially reserved such Right

Right of Nomination, and such Body or Person shall be the Patrons of such Church by the Name and Style specified in the Sentence of Consecration; and such Right of Nomination shall be of the Nature of Real Property. 14 & 15 Vict. c. 97. s. 13.

How Right of Nomination may be exercised when vested in more than Two Persons.

27. Such Right of Nomination, when vested in more than *Two* Persons, shall in every such Case be exercised by the Majority, unless otherwise particularly specified and agreed upon; but such Right of Nomination shall not at any Time be vested in or held in trust by more than *Five* Persons, except where such Patronage passes by Descent to Coparceners, or by the Custom of Gavelkind to more than *Five* Persons, or is conveyed by Will or Deed to more than *Five* Children, Grandchildren, Nephews, or Nieces of the Grantor or Devisor. 1 & 2 W. 4. c. 38. s. 9. 14 & 15 Vict. c. 97. s. 13.

Trustees not to exceed Five in Number. 14 & 15 Vict. c. 97. s. 10.

Land and Site to vest in Patrons. 1 & 2 W. 4. c. 38. s. 9. 19 & 20 Vict. c. 104. s. 10.

28. The Land and Site whereon such Church shall be built, with the Cemetery thereto belonging, if any, shall be specified in the Sentence of Consecration, and shall, until it becomes the Church of a new Parish, vest in such Patrons by the Name and Style aforesaid.

After Instrument of Nomination has been executed and registered Three Years the Validity thereof not to be questioned. 1 & 2 W. 4. c. 38. s. 19. 1 & 2 Vict. c. 107. s. 11.

29. Every such Instrument of Nomination shall be registered in the Registry of the Diocese, and after it has been so registered for *Three* Years the same shall be admitted in all Courts as conclusive Evidence that every Matter required to be done previous to the Declaration of such Right of Nomination has been performed.

New Trustees to be appointed by continuing Trustees or according to Agreement. 3 & 4 Vict. c. 60. ss. 11. 13. 14 & 15 Vict. c. 97. s. 10.

30. If any Trustee to whom the Right of Nomination to any such Church is in the first instance granted under such Instrument die, resign, or become incapable of acting, or unwilling to act, or be desirous of retiring from such Trust, the surviving or continuing Trustees, or the Majority of them, shall appoint a new Trustee in the Place of the Trustee so dying, resigning, or becoming incapable, or unwilling to act, unless a different Mode of electing or Power of nominating new Trustees have been agreed upon in the first instance, between the Commissioners and the Body or Person building, purchasing, or acquiring, and endowing such Church, or if the same be erected or purchased and endowed by Subscription, between the Commissioners and the major Part in Value of the Subscribers thereto of not less than *Fifty Pounds* each.

Agreement to be sealed by the Commissioners. 14 & 15 Vict. c. 97. s. 10.

31. Such Agreement shall be signed by such Body or Person, or by the Majority in Value of such Subscribers, and sealed by the Commissioners, and in each such Case such new Trustee shall be appointed in conformity to such Agreement.

 32. Every

Trustees to be Members of the United Church. 41 & 15 Vict. c. 97. s. 10.

32. Every Trustee on his Nomination, and also so often as he exercises or concurs in exercising the Right of Nomination of which he is a Trustee, shall sign a Declaration that he is a Member of the United Church.

No Conveyance to the new Trustees necessary. 14 & 15 Vict. c. 97. s. 10.

33. On the Appointment of a Trustee it shall not be necessary to make any Conveyance of the Right of Nomination to such Church, but such Right of Nomination shall vest in the new Trustee jointly with the surviving or continuing Trustees or Trustee, or solely, as Occasion may require, without such Conveyance.

Continuing Trustees may act. 14 & 15 Vict. c. 97. s. 10.

34. When any Trustee or Trustees may have died, resigned, or become incapable of acting, or unwilling to act, the surviving or continuing Trustee or Trustees may continue to act, notwithstanding a new Trustee may not have been appointed, unless the contrary shall have been directed in any such Agreement.

When Bishop may appoint Trustees. 14 & 15 Vict. c. 97. s. 10.

35. When the Right of appointing new Trustees is vested in a surviving or continuing Trustee for the Time being, who is incapable of acting or unwilling to act, or if there be no surviving or continuing Trustee, the Bishop, in each such Case, may, under his Hand and Seal, appoint any Number of Trustees, not exceeding *Five*.

Churchwardens to be appointed, whether a Particular District be assigned to the Church or not. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. s. 7.

36. *Two* fit and proper Persons shall be appointed to act as Churchwardens for such Church, in the Manner herein-after provided, until such Church shall become the Church of a new Parish, or of a District Chapelry or Consolidated Chapelry, after which Time (if the same shall happen) Churchwardens shall be appointed thereto in the same Manner as for other Parishes, District Chapelries, and Consolidated Chapelries respectively.

Time of Appointment of Churchwardens. 1 & 2 W. 4. c. 38. s. 16.

37. The first Appointment of such Persons shall take place within *Two Months* after the Consecration of such Church, and the next Appointment of such Officers shall take place at the usual period of appointing Parish Officers in every Year, and they shall be chosen, one by the Minister of the Church for the Time being, and the other by the Renters of Pews in such Church.

Duties of Churchwardens. Collection and Application of Pew Rents, &c.

38. Such Persons, when so elected Churchwardens, shall appear and be admitted and be sworn according to Law, and in addition to the general Duties herein-after provided for Churchwardens, shall collect, receive, and appropriate the Rents (if any) of the Pews and Seats, and pay over the Residue thereof which shall remain after paying the Salaries, if any, which may have been fixed by the Commissioners,

missioners, and other Expenses incident to the Performance of Divine Service, to such Minister for his own Use, by way of Stipend, in addition to the yearly Interest and Dividends which shall arise from the Endowment belonging to such Church. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. s. 7.

39. The Commissioners, if they think fit, may order that such Church shall be either subject to the Provisions herein-after contained in Part XII. of this Act, relative to the Apportionment of Accommodation in Pews, Seats, and Free Seats, and to Pew Rents in Churches, for which the Commissioners shall fix a Scale of Pew Rents, or, if they think fit, may order that the Pews or Seats in such Church shall be let by the Churchwardens, or by some Person appointed in that Behalf by the Trustees or by the Body or Person building and endowing the Church, according to a Scale of Pew Rents fixed by such Trustees or by such Body or Person, and approved of by the Bishop, which Scale it shall be lawful for such Trustees or such Body or Person, with Consent of the Bishop, to alter from Time to Time. Regulations as to letting of Pews and Appropriation of Pew Rents. 1 & 2 W. 4. c. 38. ss. 4. 22.

40. Such Pews or Rents as shall not be taken at the Rent respectively fixed thereon within *Fourteen* Days after the Commencement of the ensuing Year shall in every such Case be let to any Inhabitants of any adjoining Parishes or Places in which there shall not be sufficient Accommodation in the Churches in such Parishes or Places for the Inhabitants thereof, at the Rent respectively so affixed upon such Pews or Seats, for any Term not exceeding the End of the Year; and at the Expiration of the Year, and also at the Expiration of every succeeding Year, in which any such Pews or Seats shall be rented by Inhabitants of any adjoining Parishes or Places, such Pews or Seats shall be inserted in the List of vacant Pews or Seats to be taken in preference by the Inhabitants of the Parish or Place to which the Church shall belong; and all such Pews or Seats as may not be so taken by any Inhabitants of the Parish or Place may again be let, and so on from Year to Year, to any Inhabitants of any adjoining Parish or Place. Pews may be let to Inhabitants of any adjoining Parishes or Places. 1 & 2 W. 4. c. 38. ss. 4. 22.

2. *Churches built without Endowments by Private Subscription.*

41. Any *Twelve* or more substantial Householders of any Parish, District, or Place may certify in Writing to the Bishop, that there is not Accommodation for more than *One Fourth* of the Inhabitants thereof for the Attendance upon Divine Service according to the Use of the United Church, or that the existing Churches or Church thereof are or is situate at an inconvenient Distance from the Places of Residence of any large Number of the Inhabitants, and that such Twelve or more Householders may certify to the Bishop that there is not sufficient Church Accommodation. 5 G. 4. c. 103. s. 5.

Householders or some of them, either by themselves or with the Assistance of others, are desirous by private Subscription to raise such Sum as may be necessary for building or purchasing a Church, or any Building to be used as a Church, and to provide out of the Pew Rents thereof a competent Stipend for the Spiritual Person who may officiate therein, and for a Clerk thereof, and for all other Expenses incident to the Performance of Divine Service, and for maintaining such Church.

Bishop may consent to the building of a Church. 5 G. 4. c. 103. s. 5.

42. The Bishop may, if he be satisfied with the proposed Site and Plan of the Church or Building and with the several Particulars contained in such Application, signify his Consent thereto; and thereupon such Church may be built or purchased or any such Building used as a Church.

Application to the Bishop shall state certain Particulars as to Services, Free Seats, and Pew Rents. 5 G. 4. c. 103. s. 10.

43. Every Application made to the Bishop shall state that the Church is to be appropriated to the Performance of Divine Service according to the Use of the United Church, and shall offer to set apart such Number or Proportion of Free Seats as is required in Cases in which Churches are built or purchased under this Act, with any Money granted by the Commissioners, and shall also offer to provide out of the Pew Rents arising from the remaining Part of the Seats of such Church a competent Salary for the Spiritual Person who may officiate therein, and for all other Expenses incident to the Performance of Divine Service, and for maintaining such Church; and a Duplicate Copy of such Application, with the Assent of the Bishop to the same, shall be deposited in such Church.

No Service to be performed or Pew Rents received until after Consecration. 5 G. 4. c. 103. s. 10.

44. No Pew Rents shall be taken, nor any Service performed in such Church, whether built or purchased by Subscription only, or jointly by Subscription and by Rates, before the same shall have been duly consecrated.

Notice to be given to the Patron and Incumbent of the Church of the Parish or Place. 5 G. 4. c. 103. s. 11.

45. The Persons or Parishioners of any Parish, District, or Place making such Application to the Bishop shall, at the Time of making the same, give Notice in Writing thereof to the Patron and Incumbent of the Church of the Parish, District, or Place in which it is proposed to build or purchase any such Church, in order to afford to such Patron or Incumbent the Opportunity of laying before the Bishop any Statement in Writing relating thereto.

Bishop not to signify his Consent until after 3 Months. 5 G. 4. c. 103. s. 11.

46. The Bishop shall not signify his Consent to such Application until the Expiration of *Three* Calendar Months from the Time when he has received the same, together with a Certificate that such Notice has been given.

47. The

Subscribers may elect Three Life Trustees for the Management of the Church or Chapel, and Nomination for a limited Period of the Spiritual Person to serve it. 5 G. 4. c. 103. s. 6.

47. The Persons, or the Assigns of such Persons, subscribing towards the building or purchasing any such Church or any such Building Sums of not less than *Fifty Pounds* each, shall elect *Three* Trustees from amongst themselves, who shall manage the temporal Affairs of such Church, and nominate to the Bishop a Spiritual Person to serve the same; and such Trustees shall be called Life Trustees of such Church, and shall continue such Trustees so long as any Spiritual Person nominated by them under this Act shall serve such Church.

Upon Death or Resignation of Life Trustees, new ones may be chosen to supply the Vacancy. 5 G. 4. c. 103. ss. 6, 7.

48. If any such Life Trustees shall, during the Time that any Spiritual Person nominated by them shall serve such Church, die, or signify to the other Life Trustees his Resignation of such Trust, or refuse to act or become incapable of acting, the Majority of the Persons who have subscribed, towards the building or purchasing such Church, Sums not less than *Fifty Pounds* each, and being Owners or Renters of Pews in the same, who shall be present at any Meeting to be called for that Purpose, (which Meeting any One or more of such Trustees are hereby required to call and appoint, and to give *Fourteen* Days Notice thereof at the least, such Notice being affixed to the Door of such Church, upon the *Two* Sundays next preceding the Day on which such Meeting is intended to be held,) from Time to Time may nominate and appoint, by Writing under their Hands, any other Person having subscribed a Sum not less than *Fifty Pounds*, and being an Owner or Renter of a Pew in such Church, and a Member of the United Church, a Life Trustee in the Place of the Life Trustee so dying or resigning; and every such new Life Trustee shall in every respect be vested with the like Powers as the Person to whose Place he may be nominated and appointed.

If Subscribers do not exceed Three they are to be deemed the Trustees, and may by Deed or Will appoint Successors. 5 G. 4. c. 103. s. 8.

49. If the Number of Persons subscribing to build or purchase such Church or Chapel do not exceed Three, such Persons shall be the Life Trustees of such Church under this Act, and shall have all such Powers as any such Life Trustees chosen under this Act would have; and in case of the Death or Resignation of any such Life Trustee, the Person, being a Member of the United Church, nominated by him, by his last Will, or by any Instrument signed by him, shall be a Life Trustee in his Place.

Freehold of Church or Chapel and Ground, &c. to vest in such Persons as shall be specified in

50. Upon the Completion of every such Church, the Land whereon the same is built, with the Cemetery thereto belonging, if any, which Land shall be specified and described in the Sentence of Consecration of the Church, shall become vested in such Persons for ever, by such Name and Style as shall be specified in such

the Sentence of Consecration. 5 G. 4. c. 103. s. 14.

such Sentence of Consecration; and such Persons shall in every such Case have perpetual Succession by the Name and Style specified in the Sentence of Consecration, and shall hold the Land so vested in them as Bodies Corporate, by such Name and Style, notwithstanding the Statutes of Mortmain.

Consecration of Church. 5 G. 4. c. 103. s. 14.

51. Every such Church, with the Cemetery to the same, if any, shall, when consecrated, be for ever thereafter set apart and dedicated to the Service of Almighty God as a Place of Divine Worship according to the Use of the United Church, and be subject to the Bishop.

Life Trustees to nominate a Minister for the first Two Turns or for any Number of Turns which may occur in Forty Years, 5 G. 4. c. 103. s. 12.

52. The Life Trustees, under this Act, of any Church built or purchased by private Subscription, may for the first Two Turns which occur after the Consecration thereof, or for any Number of Turns which may occur during the Space of *Forty* Years after such Consecration, nominate to the Bishop for his Licence a Spiritual Person to serve such Church.

Subsequent Nominations to be by Incumbent, unless made a District Church, then by Patron. 5 G. 4. c. 103. s. 12.

53. All subsequent Nominations shall be in the Incumbent of the Parish or Extra-parochial Place in which such Church is built or purchased, unless such Church be made a District Church, in which Case such subsequent Nomination shall be in the Patron of the Church of the original Parish.

To lapse if Trustees do not nominate. 5 G. 4. c. 103. s. 12.

54. If all the Trustees die or vacate, and if all the Subscribers entitled to elect Trustees die before such Nominations have been made, or such Forty Years have elapsed, then and in every such Case the Nomination shall be made by the Incumbent during such Period. In case of any Neglect of any Trustee, Patron, or Incumbent respectively to make such Nomination, the same shall lapse as in the Case of actual Benefices.

Where the Subscribers die, and no Election of Trustee can be made. 5 G. 4. c. 103. s. 12.

55. If all such Subscribers shall die, so that no such Election of any Trustee can be made, and any One of the Trustees for the Time being shall die or vacate, then and in every such Case the Incumbent for the Time being shall become a Trustee, to exercise all the Powers given to Trustees under this Act.

If Church built in part by Rates, Incumbent of original Parish to nominate; when made

56. In any Case in which any such Church is built or purchased in part by means of any Rates to be raised in any Parish, District, or Place, the first and subsequent Nominations of the Minister of such Church shall be in the Incumbent of the Church of the original Parish in which the Church so built or purchased shall be situated, except

except such Church be made a District Church, when the same shall vest in the Patron of the Church of the original Parish.

a District Church, Patron to nominate. 5 G. 4. c. 103. s. 13.

57. The Life Trustees or Churchwardens respectively of any such Church and their Successors may sell and dispose of the Vaults or Burial Places under any such Church, or in the Cemetery or Burial Ground, if any, thereof, and shall pay to the Incumbent of the original Parish such Dues or Sums as such Incumbent would be entitled to have for Vaults or Burial Places of a like Description in the Church of the Parish, and shall from Time to Time, after making such Payments, invest or lay out, in some Public Funds, Stocks, or Securities, the Remainder of the Money thence arising, and the resulting Income thereof, or such Part thereof respectively as shall not be applied under this Act: Provided always, that if any such Church shall at any Time become the Church of a District or of a new Parish under this Act, the Right of the Incumbent of the original Parish to receive such Dues or Sums as aforesaid shall thenceforth become and be subject to the Provisions herein-after contained, as to the Fees and Emoluments payable in respect of the Offices of the Church within Districts and new Parishes respectively.

Life Trustees or Churchwardens may dispose of Vaults, &c., and pay the Dues to which the Incumbent is entitled. 5 G. 4. c. 103. s. 15.

58. Such Life Trustees or Churchwardens shall, out of such Income, from Time to Time make good any Deficiencies that may arise in the Payment of the Stipend or Salary of the Minister or Clerk of the Church, or in any other Payments or incidental Expenses to be paid from the Produce of the Rents of Pews or Seats, by reason of the Rents of Pews not being adequate to the Payment of such Stipend, Salary, or Expenses, and shall then apply such Income in maintaining and repairing the Church.

Remainder to form a Fund for supplying Deficiencies in the Minister's Salary, and for Repairs. 5 G. 4. c. 103. s. 15.

59. If by reason of any such Funds, or if the Produce of Pew Rents be more than sufficient for all the Purposes to which the same are made applicable under this Act, there shall be a Surplus of annual Income, then such Surplus shall be applied in subsequent Years to the Purposes for which Pew Rents are applicable; and the Pew Rents shall in every such Case be reduced rateably and in equal Proportion, or a larger Number of Free Seats shall be opened, as the Bishop shall direct.

Application of surplus Income. 5 G. 4. c. 103. s. 15.

60. The Provisions of this Act concerning the securing, recovering, and paying the Stipend of Spiritual Persons and for the Recovery of Pew Rents, and likewise respecting the Number or Proportion of Free Seats in Churches built wholly or in part with Money granted by the Commissioners, shall extend and be applied to

Powers for the Recovery of the Stipend of Minister and Pew Rents. 5 G. 4. c. 103. s. 18.

to any such Church, whether built or purchased by Subscription, or by Subscription and Rates.

Church built by Subscription may be made a District Church. 5 G. 4. c. 103. s. 16.

61. Any such Church, with the Consent of a Majority of the Subscribers entitled to elect the Trustees of such Church, and of the Bishop, the Patron, and Incumbents, may, under this Act, be made by the Commissioners a District Church.

If Parish be divided for Ecclesiastical Purposes, it will in 40 Years become a District Church. 5 G. 4. c. 103. s. 17.

62. At the Expiration of the *Forty* Years from the Consecration of such Church it shall, if Her Majesty in Council have made a Division of the Parish, District, or Place for that Purpose, in the Manner directed by this Act, become in all respects a District Church, without any Consent being obtained for that Purpose, or it shall remain a Parochial Chapel if no such Division and Appropriation of such Church to a District have been made.

3. *Churches built by, or with Aid from, the Commissioners.*

Churches built out of Money granted by the Commissioners to which Districts are not assigned. 58 G. 3. c. 45. s. 21. 59 G. 3. c. 134. s. 7.

63. The Commissioners may build or aid the building of any additional Church in any Parish, District, or Place, without their determining whether such Parish, District, or Place shall be divided or not into separate and distinct Parishes or Districts for Ecclesiastical Purposes under this Act, or whether any such Building shall after the Consecration thereof be deemed a Church or Chapel, or whether the same shall be appropriated to the Accommodation of the Parish at large in which the same is built, or to any particular District or Division thereof.

When Patronage vested in the Incumbent of the original Church. 58 G. 3. c. 45. s. 21. 14 & 15 Vict. c. 97. s. 26.

64. The Patronage of such new Church without a District, if not vested elsewhere, shall belong to the Incumbent of the original Church of the Parish, District, or Place in which such new Church is built, or if built in an Extra-parochial Place shall, if not vested elsewhere, belong to the Bishop.

Powers of the Commissioners to declare Patronage not interfered with. 14 & 15 Vict. c. 97. s. 26.

65. Nothing herein contained shall be construed to interfere with the Powers given by this Act to the Commissioners with the Consent of the Bishop specially to declare the Patronage of a new Church built in an Extra-parochial Place, and endowed to their Satisfaction.

Appointment and Duties of Churchwardens. 58 G. 3. s. 45. s. 74.

66. If the Commissioners have not accepted or directed a Conveyance of the Site upon which such new Church is or shall be built, the Churchwardens of the Mother Church shall execute and perform with respect to such new Church all such Things as the Churchwardens of the Church of a District Chapelry are authorized or required to do.

67. If

Time of Appointment. 8 & 9 Vict. c. 70. s. 7.

67. If the Commissioners have accepted or directed a Conveyance of the Site upon which such new Church is or shall be built, Two fit and proper Persons shall be annually appointed Churchwardens for such Church, and the first Appointment of such Persons shall take place within *Two* Months after the Consecration thereof, and the next Appointment of such Officers shall take place at the next usual Period of appointing Parish Officers.

By whom Churchwardens shall be appointed, and their Duties. 8 & 9 Vict. c. 70. s. 7.

68. In each such Case One of such Persons shall be chosen by the Minister of such Church, and the other by the Renters of Pews therein, or by the Majority thereof at a Meeting to be summoned in all respects as the Minister of such Church shall direct, or, if there be no Minister, by the Churchwardens going out of Office. If there be no rented Pews in such Church the Minister thereof shall appoint both Churchwardens; and the *Two* Persons when so appointed and admitted Churchwardens shall, in addition to their general Duties herein-before mentioned, collect, receive, and appropriate the Rents, if any, of the Pews and Seats in any such Church, and pay the Stipend and Salary, if any, assigned by the Commissioners to the Minister and Clerk thereof.

How Churchwardens to be appointed after a new Church has become a Parish or District Church. 8 & 9 Vict. c. 70. s. 7.

69. If such new Church be made the Church of a new Parish, Consolidated Chapelry, or District Chapelry, the several Provisions of this Act respecting the Appointment and Election of Churchwardens for the same, and their Powers and Duties in each such Case, shall thenceforth respectively apply to such new Church.

Assignment of Stipend. 58 G. 3. c. 45. s. 21.

70. Every such new Church without a District which shall have been built under this Act by or with the Aid of the Commissioners shall be served by a Curate to be licensed by the Bishop, who shall be paid such Stipend as shall be assigned by the Commissioners.

Licence of Curate not rendered void by Avoidance of the Mother Church. 8 & 9 Vict. c. 70. s. 18.

71. The Licence of such Curate as last aforesaid shall not be rendered void by the Avoidance of the Mother Church, unless revoked by the Bishop.

4. *General Provisions as to new Churches.*

Minister may perform Divine Service. 1 & 2 W. 4. c. 38. s. 10.

72. The Minister of every Church built under the Provisions of this Act may, when duly licensed by the Bishop, perform Divine Service therein according to the Use of the United Church.

Agreements before a Church is built or consecrated.

73. Any Agreement already made or which may be hereafter made between any Bishop, Patron, and Incumbent under the former Church Building Acts or this Act, purporting to be an Agreement

59 G. 3. c. 134. s. 13. 1 & 2 Vict. c. 107. s. 15. 8 & 9 Vict. c. 70. s. 23. 11 & 12 Vict. c. 37. s. 4.

made between such Parties with respect to any new Church before or during the building, or previous to the Consecration thereof, that the Right of Presentation thereto shall, on Consecration, be vested either in perpetuity or otherwise in any Body or Person, shall be valid for the Purpose of vesting such Patronage according to such Agreement.

Churches built before but consecrated after the passing of this Act.

74. Any Church built, purchased, or acquired under the former Church Building Acts or former New Parishes Acts, but consecrated after the passing of this Act, shall be deemed to have been built, purchased, or acquired under this Act.

PART III.

Formation of Districts.

1. *District Chapelries.*

How a Particular District may be formed for an endowed Church, and become a District Chapelry. 1 & 2 W. 4. c. 38. s. 10. 14 & 15 Vict. c. 97. ss. 11. 29.

75. The Commissioners shall, except where from special Circumstances they shall deem it not advisable, proceed with all convenient Speed to assign a Particular District to every Church the Patronage whereof is vested in perpetuity or for the Time being under this Act in the Body or Person building, purchasing, or acquiring and endowing the same, or in their Nominees, and such District, on the Assignment thereof, shall thenceforth become and be a District Chapelry.

Particular Districts how formed. Consents requisite. 1 & 2 W. 4. c. 38. s. 10.

76. Such Particular District or any Part thereof may be taken out of any Parish, District, or Place, and may be assigned to such Church by the Commissioners under their Common Seal, with the Consent of the Bishop, and the Boundaries thereof may in like Manner from Time to Time be altered by the Addition of any Parts or Part of any Parish, District, or Place, or otherwise.

Boundaries of a District may be altered, subject to certain Notices to Patron and Incumbent. 11 & 12 Vict. c. 37. s. 2.

77. The Commissioners shall cause a Description of the Boundaries of the District so assigned by them to such Church, and every Alteration thereof, to be registered in the Registry of the Diocese, and all such Alterations of Boundaries shall be valid for the Purpose of substituting such altered Boundaries in lieu of the former Boundaries of such Particular District.

A Copy of the proposed Alteration to be forwarded to Patron and Incumbent One Month before

78. Previously to any Assignment of such District, or any Alteration of the Boundaries thereof, being made, a Draft or Copy of the Instrument by which such Assignment or Alteration is proposed to be effected shall be delivered or sent to the Patron and Incumbent of every Parish, District, or Place to be affected by such Assign-

Assignment or Alteration, in order that such Patron and Incumbent may have an Opportunity of submitting to the Commissioners any Observations or Objections upon or to the proposed District, or any Alteration of the Boundaries thereof; and the Commissioners shall not assign such District or effect such Alteration until after the Expiration of *One Month* after such Draft or Copy has been so delivered or sent, unless every such Patron or Incumbent in the meantime consent to the same.

such Alterations are carried out. 1 & 2 W. 4. c. 38. s. 11. 11 & 12 Vict. c. 37. s. 2. 14 & 15 Vict. c. 97. ss. 11. 29.

79. If the Consent of the Incumbent of any such Parish, District, or Place be not obtained to such Alteration of Boundaries, such Alteration shall not take effect until after the next Avoidance of the Church of such Incumbent.

If Consent of Incumbent be not obtained, Alterations of Boundaries not to be carried out until the then next Avoidance. 11 & 12 Vict. c. 37. s. 2.

80. A perpetual Rentcharge issuing out of Lands and Hereditaments may be provided for any Church to which a Particular District is assigned, and may be purchased by the Trustees of any Repair Fund provided for such Church, with and out of the same, as may be accepted in lieu of any Repair Fund, and in either Case may be given to and accepted by the Incumbent of such Church, and held by him and his Successors for the Purposes for a Repair Fund; and the Trustees of any such Repair Fund may assign and transfer such Rentcharge to such Incumbent or his Successors.

A perpetual Rentcharge may be accepted by the Incumbent for a Repair Fund. 3 & 4 Vict. c. 60. s. 15.

81. The Provisions in this Act as to the Persons to whom Notices are to be sent or to be given previously to the Declaration of the Right of Nomination to the Church to which such Particular District is proposed to be assigned in Cases where Patrons are numerous, or where there has been no Incumbent for *Twelve* Months, or where such Church is proposed to be built in an Extra-parochial Place, shall be applicable to Notices required to be sent before assigning a Particular District, or making any Alteration in the Boundaries thereof.

How Notices to be sent when Patrons numerous, or where there is no Incumbent. 1 & 2 Vict. c. 107. s. 2. 3 & 4 Vict. c. 60. s. 16. 14 & 15 Vict. c. 97. s. 12.

82. A District Chapelry may, also, by a Representation of the Commissioners, and by an Order of Her Majesty in Council ratifying the same, be formed by assigning, either at the same Time or at separate Times, to any Church then already existing or thereafter to be built or acquired, a District out of any Parish, District, or Place, or any Part or Parts thereof, or by making an Extra-parochial Place or any Part thereof a District Chapelry.

How a District Chapelry may be formed in other Cases. 59 G. 3. c. 134. s. 16. 1 & 2 Vict. c. 107. s. 12. 2 & 3 Vict. c. 49. s. 3. 3 & 4 Vict. c. 60. s. 1. 11 & 12 Vict. c. 37. s. 1. 14 & 15 Vict. c. 97. ss. 16. 29.

83. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a District Chapelry shall be made with the Consent of the Bishop, under his Hand and Seal.

Consents requisite. 58 G. 3. c. 45. s. 21. 59 G. 3. c. 134. s. 16.

 84. Every

When Orders in Council to take effect from their Date. 1 & 2 Vict. c. 107. s. 12.

84. Every Order in Council for the Formation of a District Chapelry shall take effect from the Date of such Order, except where a District Chapelry has been formed out of a District Parish, formed under the former Church Building Acts, in which Case such Order shall not take effect during the Incumbency of the then existing Incumbent of the Church of such District Parish without his Consent.

Church to be a Perpetual Curacy or Benefice. 8 & 9 Vict. c. 70. s. 17.

85. The Church of every District Chapelry shall be a Perpetual Curacy and Benefice, and the Licence thereto shall operate as Institution to any Benefice.

Incumbent to have exclusive Cure of Souls. Capacity to hold Land or Property. 8 & 9 Vict. c. 70. s. 17.

86. The Incumbent of the Church of a District Chapelry shall have exclusive Cure of Souls therein; and shall have perpetual Succession, and be a Body Politic and Corporate, and he and his Successors may receive, take, and hold Land, Property, or Endowments.

When Patronage vested in the Incumbent of the original Parish. 59 G. 3. c. 134. s. 16.

87. The Patronage of the Church of every District Chapelry shall belong to the Incumbent for the Time being of the Parish, District, or Place out of which such District Chapelry was formed, (and whether or not all or any Part thereof formed Part of any District Chapelry previously formed,) except where such Patronage is at the Time of the Formation of such District Chapelry legally vested or agreed to be vested in any other Body or Person, in which Case the same shall continue to belong to such Body or Person, as if such District Chapelry had not been formed.

When Patronage belongs to the Bishop. 14 & 15 Vict. c. 97. s. 26.

88. When an Extra-parochial Place has been formed into a District Chapelry the Patronage of the Church thereof, unless vested or agreed to be vested elsewhere, shall belong to the Bishop.

Governors of Queen Anne's Bounty may augment any Church. 2 & 3 Vict. c. 49. s. 3.

89. The Governors of the Bounty of Queen Anne may augment any Church, either before or after a District Chapelry has been formed or assigned thereto, on the same Terms, Conditions, and Regulations as are or may be in force concerning such Augmentation.

Such Church so augmented shall be subject to the Provisions relating to District Chapelries. 2 & 3 Vict. c. 49. s. 4.

90. Such Church so augmented, and to which a District Chapelry shall have been assigned, shall be subject to the Provisions herein contained relating to District Chapelries.

Commissioners and Bishop to determine what Offices are to be performed.

91. The Commissioners, with the Consent of the Bishop, may determine whether all or any of the Offices of the Church shall be performed in the Church of a District Chapelry, and may from Time to Time, with the like Consent, either by supplemental Orders in

in Council, or, upon the Application of the Incumbent of the District Chapelry by Order under their Common Seal, direct that all or any of the Offices of the Church, not included in the first or any subsequent Orders, shall be thereafter performed in such Church.

59 G. 3. c. 134. s. 16. 7 & 8 Vict. c. 56. s. 4. 14 & 15 Vict. c. 97. s. 17. 19 & 20 Vict. c. 104. s. 11.

92. The Commissioners, with the Consent of the Bishop, shall from Time to Time as the Offices are directed to be performed determine whether any and what Part or Proportion of the accustomed Fees for the Performance of such Offices or any of them shall be assigned to the Incumbent of such District Chapelry; and all such Fees not so assigned, together with the other accustomed Fees, shall belong to the Incumbent of the Church of the original Parish, District, or Place, and such Order shall be registered in the Registry of the Diocese.

Who are to determine the Amount of Fees. 59 G. 3. s. 134. ss. 16, 17. 7 & 8 Vict. c. 56. s. 4. 14 & 15 Vict. c. 97. s. 17.

93. Whenever the Fees or any Part thereof arising from the Performance of the Offices of the Church, or of any such Offices, in any District Chapelry formed under the former Church Building Acts or this Act, belong to the Incumbent of the Parish, District, or Place out of which such District Chapelry was formed, the Commissioners may assign to the then existing Incumbent of such Parish, District, or Place such an annual Sum as may appear to them a just Compensation for the Loss which any such existing Incumbent may sustain by reason of the Transfer of any of the accustomed Fees, under the Provisions herein contained, to the Incumbent of the District Chapelry.

Compensation to the Incumbent of the Mother Church for the Loss of Fees. 14 & 15 Vict. c. 97. s. 2. 19 & 20 Vict. c. 104. s. 13.

94. The accustomed Fees belonging to the Incumbent of the original Parish, District, or Place, arising within such District Chapelry, shall belong to the Incumbent of such District Chapelry, either when such Compensation has been awarded by the Commissioners, or otherwise, and has been certified by them (which Certificate shall be registered in the Registry of the Diocese), or when the Incumbent of the original Parish District, or Place has relinquished the Fees belonging to him in respect of the Offices of the Church, or upon the Avoidance of any such original Parish, District, or Place by any Incumbent to whom such Fees or any Part thereof belong, whichever of such Three Events shall first happen.

Reserved Fees to belong to the Incumbent of the Mother Church until he be compensated, relinquish, or until his Avoidance, and then to belong to the Incumbent of the District Chapelry. 14 & 15 Vict. c. 97. s. 5. 19 & 20 Vict. c. 104. s. 12.

95. Where the Fees or any Part of the Fees arising from the Performance of the Offices of the Church or any of them are not reserved or do not otherwise belong to the Incumbent of the original Parish, District, or Place out of which any District Chapelry was taken, all the accustomed Fees arising within such District Chapelry shall belong to the Incumbent of such District Chapelry, notwithstanding

Where Fees for the Performance of the Offices of the Church belong to Incumbent of District Chapelry, all other Fees, &c. shall

belong to him.

standing Compensation may not have been made to the Incumbent of the original Parish, District, or Place.

2. *Consolidated Chapelries.*

14 & 15 Vict. c. 97. s. 6. 19 & 20 Vict. c. 104. s. 12. How a Consolidated Chapelry may be formed.

96. A Consolidated Chapelry may, by a Representation of the Commissioners, and by an Order of Her Majesty in Council ratifying the same, be formed by uniting contiguous Parts of old or new Parishes or Extra-parochial Places, Consolidated Chapelries, District Chapelries, or any other Ecclesiastical Districts whatsoever, and by assigning the Parts so united as a District to any Church then already existing or thereafter to be built or acquired.

59 G. 3. c. 134. s. 6. 8 & 9 Vict. c. 70. s. 9. 11 & 12 Vict. c. 37. s. 1. 14 & 15 Vict. c. 97. ss. 16. 19. 29. The Consents requisite for the Formation of a Consolidated Chapelry.

97. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a Consolidated Chapelry, shall be made with the Consent, under the Hands and Seals, of the Bishop, and of the Patrons or the major Part in Number of the Patrons of the respective Parishes, Extra-parochial Places, Consolidated Chapelries, District Chapelries, or other Ecclesiastical Districts, out of which such Consolidated Chapelry is formed.

8 & 9 Vict. c. 70. s. 9. 14 & 15 Vict. c. 97. s. 20. Powers of 1 & 2 W. 4. c. 45. extended with respect to Endowments to Chapels of Consolidated Chapelries. 1 & 2 Vict. c. 107. s. 14.

98. The Rectors or Vicars for the Time being of the several Parishes, parts of which are united in any Consolidated Chapelry, shall have respectively the same Powers for annexing to any such Consolidated Chapelry any part of the Tithes or other annual Revenues belonging to their Rectories or Vicarages respectively, and for granting to the Incumbent for the Time being of any such Consolidated Chapelry any annual Sum of Money, to be payable by equal quarterly or equal half-yearly Payments, and for charging the same on all or any Part of such Tithes or Revenues, or on any Land or Property belonging to such Rectories or Vicarages respectively, as are by the Act of the Session holden in the First and Second Years of King William the Fourth, Chapter Forty-five, given to Rectors and Vicars for the Augmentation of Chapels of Ease, Parochial Chapels, District Churches or Chapels, and any Chapels having Districts assigned thereto: Provided that the Exercise of such Powers shall be subject to the like Consents (to be signified in the same Manner) as is required by such Act.

Powers for Recovery of Tithes, Revenues, and Money granted to Consolidated Chapelries. 1 & 2 Vict. c. 107. s. 14.

99. In every Case in which any such Tithes or other Revenues are or shall be so annexed to any Consolidated Chapelry, the Incumbent for the Time being thereof shall have the same Remedies for enforcing Payment of such Tithes or Revenues which are so annexed as the Rectors or Vicars for the Time being of such Rectories or Vicarages respectively might have had, if such Annexation had not been made.

100. In

100. In every Case in which any such annual Sum of Money shall be so granted to the Incumbent of a Consolidated Chapelry, such Incumbent and his Successors shall have all such Remedies for enforcing Payment thereof, by Action of Debt, against the Incumbent of the Rectory or Vicarage by whom any such annual Sum is granted, or the Incumbent thereof for the Time being, or by Distress upon the Hereditaments to be charged therewith, or otherwise, as may in that Behalf be specified and given by the Deed by which the Grant is made.

Incumbents can enforce Payment of any annual Sum of Money granted to them. 1 & 2 Vict. c. 107. s. 14.

101. The District forming a Consolidated Chapelry shall, whether such District or the Church thereof may or may not be situate wholly or in part within any Exempt or Peculiar Jurisdiction, be subject to the Jurisdiction of the Bishop and Archdeacon within the Limit of whose Diocese and Archdeaconry the Lord's Table of such Church is situate, in as full and ample a Manner as it would be if no Part of such Chapelry were within such Exempt or Peculiar Jurisdiction; and in every such Case all other Ecclesiastical Jurisdiction over such Church and Chapelry shall cease.

Bishop of the Diocese in which the Lord's Table is situated to have Jurisdiction. 59 G. 3. c. 134. s. 6. 2 & 3 W. 4. c. 61. 8 & 9 Vict. c. 70. s. 9.

102. The Patronage of the Church of a Consolidated Chapelry, unless vested or agreed to be vested elsewhere, shall belong to such Body or Person as may be named in this Behalf in the Representation made to Her Majesty in Council for the Formation of such Consolidated Chapelry, such Representation to be with the Concurrence, signified under the Hands and Seals, of the major Part in Number of the Patrons of the respective Parishes, Extra-parochial Places, Consolidated Chapelries, District Chapelries, or other Ecclesiastical Districts, out of which such Consolidated Chapelry is to be formed: Provided that when, at the Time of forming such Consolidated Chapelry, the Church thereof is full, the Spiritual Person filling such Church shall be and remain Incumbent thereof.

Patronage to belong to the Body or Person named in the Representation made to the Queen. 8 & 9 Vict. c. 70. s. 9. 14 & 15 Vict. c. 97. ss. 20. 29.

103. The Church of a Consolidated Chapelry shall be a Perpetual Curacy and a Benefice Presentative, except that in those Cases where at the Time of the Consolidation the Church was the Church either of a Rectory or Vicarage, then such Church shall retain its original Character.

Status of Church. 8 & 9 Vict. c. 70. s. 9.

104. The Licence to the Church of a Consolidated Chapelry shall operate as Institution to any Benefice.

Licence to operate as Institution. 8 & 9 Vict. c. 70. s. 9.

105. The Incumbent serving such Church shall have exclusive Cure of Souls in such Consolidated Chapelry, and shall have perpetual Succession

Incumbent to have exclusive Cure of Souls.

Capacity to hold Endowments. 8 & 9 Vict. c. 70. s. 9.

Succession and be a Body Politic and Corporate, and he and his Successors may receive, take, and hold Land, Property, or Endowments.

Where Offices of the Church may be performed. 8 & 9 Vict. c. 70. s. 10.

106. The Offices of the Church may be performed in the Church of a Consolidated Chapelry immediately after the Formation thereof, or if, upon the Formation thereof, there be no such Church, then immediately after the Consecration of such Church.

To whom the accustomed Fees belong. 8 & 9 Vict. c. 70. s. 10. 19 & 20 Vict. c. 104. s. 12.

107. The accustomed Fees arising within the Limits of a Consolidated Chapelry shall continue to belong to the Incumbents of the original Parishes, Places, Districts, or Chapelries out of which such Consolidated Chapelry was formed, unless and until the same belong to the Incumbent of the Consolidated Chapelry, as hereinafter provided.

Compensation to the Incumbent of a Mother Church for the Loss of Fees. 14 & 15 Vict. c. 97. s. 3. 19 & 20 Vict. c. 104. s. 13.

108. The Commissioners may assign to any Incumbents of such original Parishes, Places, Districts, or Chapelries who may be entitled to any of the accustomed Fees arising within the Consolidated Chapelry, such an annual Sum as may appear to the Commissioners a just Compensation for the Loss which such Incumbents may sustain from the Transfer of any accustomed Fees, under the Provisions herein-after contained, to the Incumbent of the Consolidated Chapelry.

Reserved Fees to belong to the Incumbent of the Mother Church until he relinquish, &c., and then to belong to the Incumbent of the Consolidated Chapelry. 14 & 15 Vict. c. 97. s. 5. 19 & 20 Vict. c. 104. s. 12.

109. Any of the accustomed Fees belonging to the Incumbent of any original Parish, Place, District, or Chapelry, out of which any Part of a Consolidated Chapelry is taken, shall belong to the Incumbent of such Consolidated Chapelry, either when such Compensation has been awarded by the Commissioners or otherwise, and has been certified by them (which Certificate shall be registered in the Registry of the Diocese), or when the Incumbent of such original Parish, Place, District, or Chapelry has relinquished the Fees belonging to him in respect of the Offices of the Church, or upon the Avoidance of any such original Parish, Place, District, or Chapelry by any Incumbent to whom such Fees or any Part thereof belong, whichever of such Three Events shall first happen.

When the Fees for the Performance of the Offices of the Church belong to Incumbent of Consolidated Chapelry, all other Fees, &c. shall

110. Where the Fees or any Part of the Fees arising from the Performance of the Offices of the Church or any of them are not reserved or do not otherwise belong to the Incumbent of the original Parish, Place, District, or Chapelry out of which any Consolidated Chapelry or any Part thereof was taken, all the accustomed Fees arising within such Consolidated Chapelry or such Part thereof shall belong to the Incumbent of such Consolidated Chapelry, notwithstanding the

the Incumbents of such original Parishes, Places, Districts, or Chapelries have not received any Compensation.

belong to him. 14 & 15 Vict. c. 97. s. 6. 19 & 20 Vict. c. 104. s. 12.

3. *Separate Parochial Districts.*

111. A separate Parochial District, whether there be or be not within its proposed Limits a consecrated Church, may be formed either out of, or by uniting contiguous Parts of, any Parish, District, or Place, or by converting an Extra-parochial Place into a separate Parochial District; provided it be made to appear to the Commissioners that the Formation of such District would promote the Interests of Religion, and that there is, or that there is Reason to expect, an adequate Maintenance for the Incumbent. Such separate Parochial District may be formed notwithstanding any Local Act.

How a separate District for Spiritual Purposes may be formed. 6 & 7 Vict. c. 37. s. 9. 19 & 20 Vict. c. 104. ss. 1. 3.

112. The Commissioners shall, in their Representation to Her Majesty in Council, fix and declare a Name for such separate Parochial District, and may, if they think fit, specify some existing Church, if any, in the District, as the Parish Church of the District; provided that Notice thereof be given by the Commissioners to the Patron and Incumbent of such existing Church.

District to be named and Church specified. 19 & 20 Vict. c. 104. s. 2. 19 & 20 Vict. c. 104. s. 30.

113. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a separate Parochial District shall be made with the Consent of the Bishop under his Hand and Seal.

Consents requisite. 6 & 7 Vict. c. 37. s. 9.

114. The Draft of any Scheme for constituting any separate Parochial District shall be delivered or transmitted to the Incumbent and to the Patron of the Church of any Parish, District, or Place out of which it is recommended that such District or any Part thereof should be taken, in order that such Incumbent or Patron may have an Opportunity of making to the Commissioners or to the Bishop any Observations or Objections upon or to the constituting of such District.

Draft of Scheme to be sent to Incumbent and Patron of Parish to be divided. 6 & 7 Vict. c. 37. s. 9.

115. Such Scheme shall not be laid before Her Majesty in Council until after the Expiration of *One Calendar Month* next after such Draft shall have been so delivered or transmitted, and such Notice, if any, given, unless in the meantime such Incumbents and Patrons shall consent to such Scheme.

When Scheme shall be laid before the Queen. 6 & 7 Vict. c. 37. s. 9.

116. If the Commissioners do not specify any existing Church as the Church of such separate Parochial District, a Minister may be nominated to such District, and may be licensed thereto by the Bishop; and such Minister shall perform within such District, independently of the Incumbent or Minister of the original Parish,

If no Church specified, Minister may be licensed to the District. 6 & 7 Vict. c. 37. s. 11. 7 & 8 Vict. c. 94. s. 2.

District, or Place, all such Pastoral Duties appertaining to the Office of a Minister of the United Church as shall be specified in such Licence, and shall, so far as the Performance of the same may be authorized by such Licence, have the Cure of Souls in and over such District.

Fee for Licence. 7 & 8 Vict. c. 94. s. 3.

117. For the making, issuing, and granting of any such Licence, no further or larger Fee or Gratuity than *Twenty Shillings* shall be payable to or receivable by any Person.

Until Minister be licensed, original Parish not affected. 7 & 8 Vict. c. 94. s. 10.

118. Until a Minister be licensed to the new District, no Parish, District, or Place shall, as to the Pastoral Superintendence of the Inhabitants thereof, or otherwise, be affected by the Formation of such District.

Minister to have the Status of a Perpetual Curate. 6 & 7 Vict. c. 37. s. 12.

119. Such Minister shall be styled "The Minister of the District of ," according to the Name fixed in the Scheme for the same, and shall be subject to the Jurisdiction of the Bishop and Archdeacon within whose Diocese and Archdeaconry such District shall be situate, and shall only be removable from his Office of such Minister as any Perpetual Curate is now by Law removable; and such Minister shall be a Body Politic and Corporate, and shall have perpetual Succession, as well by such Name and in such Character as by the Name and in the Character of Perpetual Curate, hereinafter provided, as the Case may be; and such Minister and Perpetual Curate respectively may in such Name and Character respectively, notwithstanding the Statutes of Mortmain, receive and take, to him and his Successors, as well every Grant of Endowment or Augmentation made or granted by the Authority of a Scheme and Order in Council, as also any Land or Property which any Body or Person may give or grant to him according to Law.

Capacity to hold Endowments.

Patronage until Assignment to be in the Crown and Bishop alternately. 6 & 7 Vict. c. 37. ss. 11. 21.

120. The Patronage or Right of Nomination of the Minister of such separate Parochial District shall, unless or until such Patronage or Right of Nomination shall be otherwise wholly assigned, or except so far as the same shall be otherwise in part assigned under this Act, be exercised, as herein-after mentioned, alternately by the Queen and the Bishop, such Nomination being first exercised by Her Majesty on the Formation of such District.

Bishop may license a Building. 6 & 7 Vict. c. 37. s. 13.

121. The Bishop at any Time after the Formation of such separate Parochial District, in case no existing Church be specified, may license any Building therein for the Performance of Divine Service according to the Use of the United Church.

122. Upon

122. Upon such Building being so licensed, such Minister shall perform, independently of the Incumbent or Minister of the original Parish, District, or Place, such Services and Offices of the Church as shall be specified in any Licence granted by the Bishop, and shall also, so far as the Performance of the same may be authorized in any such Licence, have the Cure of Souls in and over such separate District. Minister to perform Services and Offices of the Church, and to have Cure of Souls in the District. 6 & 7 Vict. c. 37. s. 11.

123. All Laws relating to the Registration of Baptisms shall apply to Baptisms performed under any such Licence. Baptisms. 6 & 7 Vict. c. 37. s. 13.

124. No Burials shall be performed in such licensed Building, and no Marriages shall be solemnized therein. Burials. 6 & 7 Vict. c. 37. s. 11.

125. Unless an existing Church shall be specified, or until a Church shall be consecrated as the Church of such separate Parochial District, nothing herein contained shall affect the Right of any Incumbent of any Church who before the Formation of the District possessed the entire Cure of Souls within the same or any Part thereof, to publish any Banns, solemnize any Marriages, or perform any Burials in his own Church which he could have published, solemnized, or performed therein, or his Right to receive any Fees, Dues, or Emoluments (except the Fees authorized to be received by the Minister of such District), which as such Incumbent he could have received if such District had not been formed, nor any Right to attend Divine Service in any other Church which any Inhabitant of such District possessed before such District was constituted. Until the District has a Church, certain Rights of original Parish not affected. 6 & 7 Vict. c. 37. s. 14.

126. For Churchings performed in such licensed Building, the Minister thereof may receive such Fees as shall be fixed by the Chancellor of the Diocese. Churchings. 6 & 7 Vict. c. 37. ss. 13. 15.

127. For the Ministration of Baptism, or for the Registration thereof, no Fee shall be received by such Minister. No Fees for Baptism. 6 & 7 Vict. c. 37. s. 15.

PART IV.

New Parishes.

1. *Separate Parochial Districts to become new Parishes, when they have Churches.*

128. If no existing Church shall have been specified as the Church of a separate Parochial District formed under this Act, then such separate Parochial District shall, when any Church built, purchased, District for which no Church has been specified when

formed, to be a new Parish as soon as a Church is consecrated. 6 & 7 Vict. c. 37. s. 15.

chased, or acquired therein shall have been approved of by the Commissioners under their Common Seal, and consecrated as the Church of such District, become upon such Consecration a new Parish for Ecclesiastical Purposes, by the Name of "The New Parish of ," instead of "The District of ," according to the Name fixed for such District, and such Church shall be the Church of such new Parish.

Minister of District to be the Perpetual Curate. 6 & 7 Vict. c. 37. s. 15.

129. Upon such District becoming a new Parish, any Licence granted by the Bishop licensing any Building for Divine Worship as herein-before mentioned shall thereupon be void.

Patronage of new Parish to be in the Crown or Bishop alternately, unless otherwise assigned. 6 & 7 Vict. c. 37. s. 21.

130. The Patronage or Right of Nomination of the Perpetual Curate of such new Parish shall, unless or until such Patronage or Right of Nomination shall be otherwise wholly assigned, or except so far as the same shall be otherwise in part assigned under this Act, be exercised, as herein-after mentioned, alternately by the Queen and the Bishop, such Nomination being first exercised by Her Majesty on the Formation of the separate District.

District for which a Church has been specified becomes a new Parish. 19 & 20 Vict. c. 104. s. 2.

131. If an existing Church shall have been specified as the Church of a separate Parochial District formed under this Act, such District shall immediately upon the issuing of the Order of Her Majesty in Council ratifying the Scheme for the Formation of the District become and be a new Parish, by the Name fixed in the Scheme, and such Church and its Incumbent shall, without any Form or Process of Law, be the Church and Incumbent of the new Parish.

Patronage to belong to the Patron of the specified Church, unless otherwise transferred.

132. The Patronage or Right of Nomination of the Incumbent of such new Parish shall belong to the Patron of the Church so specified as aforesaid, unless or until such Patronage or Right of Nomination shall be otherwise wholly transferred, or except so far as the same shall be otherwise in part transferred under this Act.

2. *Formation of new by subdivision of old Parishes.*

Parishes may be divided into separate Parishes for all Ecclesiastical Purposes. 58 G. 3. c. 45. s. 16. 3 G. 4. c. 72. s. 16. 1 & 2 Vict. c. 107. s. 12. 14 & 15 Vict. c. 97. ss. 16. 29.

133. A distinct and separate Parish for all Ecclesiastical Purposes may be formed by a Representation of the Commissioners, and an Order by Her Majesty in Council ratifying the same, out of any Part or Parts of a Parish or Extra-parochial Place, to be divided therefrom for that Purpose at any Time or Times, (whether the Parish from which such Part is divided be an original Parish, a new Parish formed under the former Church Building Acts, the former

former New Parishes Acts or this Act, or a Parish formed by or under any other Act of Parliament).

Formation of a distinct and separate Parish out of one of Two Parishes heretofore united. 8 & 9 Vict. c. 70. s. 5.

134. Where on the *Thirty-first of July One thousand eight hundred and forty-five* there was not any consecrated Church in one of Two Parishes which had been for *Thirty* Years next before that Date united, or reputed to have been united, for Ecclesiastical Purposes, and where a new Church has been or shall hereafter be built wholly or in part out of any Property at the Disposal of the Commissioners in the Parish in which there was no such consecrated Church, the whole of such Parish may, after the Consecration of such new Church, be disunited for Ecclesiastical Purposes from the other Parish, and may be formed into a separate and distinct Parish for such Purposes, with the same Consents, in the same Manner, and subject to the same Provisions and Consequences as are provided by this Act in relation to the Formation of a distinct and separate Parish, where the same is formed out of one Parish not united with another Parish.

Consent of the Bishop and of the Patron. 58 G. 3. c. 45. s. 16. 3 G. 4. c. 72. s. 16. 19 & 20 Vict. c. 104. s. 25.

135. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a distinct and separate Parish, otherwise than by the Conversion of a District Chapelry as hereinafter mentioned, shall be made with the Consent of the Bishop and of the Patron of the Parish, under their respective Hands and Seals.

Upon a Representation for Formation of a distinct and separate Parish, the Endowments and Fees of the original Parish to be apportioned, and estimated. 58 G. 3. c. 45. s. 16. 59 G. 3. c. 134. ss. 8, 9. 19 & 20 Vict. c. 104. s. 25.

136. Every Representation for the Formation of a distinct and separate Parish shall set forth the Expediency of such Division, how far it may be necessary in consequence thereof to make any Alteration in Ecclesiastical Jurisdiction, and how the Changes consequent upon such Division in respect of Patronage, Rights of Pew Holders, and other Rights and Privileges may be made with Justice to all Parties interested; and shall likewise show how it is proposed to apportion the relative and respective Proportions of Glebe Land, Tithes, Moduses, or other Endowments or Emoluments which it may be expedient to assign and attach to the Parish or Place divided and the Parts separated therefrom, without regard to whether any such respective Proportions are locally situate or arise or accrue within the Division or District to which they may be so assigned or in any other Place, and how the permanent Charges (if any) affecting such Glebe Land, Tithes, Moduses, or other Endowments should be apportioned, and shall also show the relative Proportions of the estimated Amount of the Produce of the accustomed Fees which will accrue within such distinct and separate Parish, and such Portion of the Parish out of which the same is formed as will remain attached to the Church thereof after such Formation.

 137. The

Apportioned Part of Endowments and Charges attached to any distinct and separate Parish to belong to the Incumbent.
58 G. 3. c. 45. s. 17.
59 G. 3. c. 134. ss. 8, 9.

137. The respective Proportion of the Glebe Land, Tithes, Moduses, Endowments, or Emoluments belonging to the Incumbent of any Parish (whether by Endowment, Prescription, Usage, or otherwise,) which in the Formation of any such distinct and separate Parish are attached thereto, shall belong to and be recoverable by such Incumbents respectively, in like Manner in every respect as they were before recoverable by the Incumbent of the original Parish or Place out of which such distinct and separate Parish is formed.

Incumbents to bear the Charges apportioned to them.
59 G. 3. c. 134. s. 9.

138. The Charges apportioned by the Order in Council for the Formation of such distinct and separate Parish shall be borne by each of the Divisions of such Parish, to which or by the Incumbents to whom they shall be apportioned.

Time when Order in Council for Formation of a distinct and separate Parish is to take effect.
58 G. 3. c. 45. ss. 18. 28.
59 G. 3. c. 134. ss. 12, 13.
19 & 20 Vict. c. 104. s. 25.

139. The Order in Council for the Formation of a distinct and separate Parish shall not take effect until the Avoidance of the Church of the Parish or Place out of which such distinct and separate Parish is formed, which shall next happen after the Consecration of the Church of such distinct and separate Parish, unless with the Consent in Writing of the Incumbent thereof, or unless such Order in Council be made, and the Consent of the Patron to the Representation of the Commissioners for the Formation thereof be given, during any Avoidance of such Church, in which last-mentioned Case such Order in Council shall take effect from and after the making of such Order, if the Church of such Division shall then have been consecrated, and if not, then from and after the Consecration thereof.

Until Order in Council takes effect, the intended Church to be served by a Stipendiary Curate.
58 G. 3. c. 45. ss. 18. 26.
59 G. 3. c. 134. ss. 12, 13.
8 & 9 Vict. c. 70. s. 15.

140. The Church of a distinct and separate Parish shall immediately after the Consecration thereof be a distinct Benefice for all Ecclesiastical Purposes; but, until the Order in Council for the Formation of a distinct and separate Parish takes effect, the Church intended under such Order to become the Church of such distinct and separate Parish shall be served by a licensed Stipendiary Curate appointed by the Incumbent for the Time being of the Church of the Parish or Place out of which such distinct and separate Parish was formed, and subject to the Laws in force relating to Stipendiary Curates, except as to assigning Salaries to such Curates by the Bishop; and such Incumbent shall hold any or every such first-mentioned Church together with his original Church as if they were One Church.

The Church of an intended distinct and separate Parish may be resigned by Incumbent of the

141. In case the Spiritual Person who at the Date of the Consecration of the Church of any distinct and separate Parish is the Incumbent of the Parish or Place out of which such distinct and separate

separate Parish is formed voluntarily resign the Church of such distinct and separate Parish, such Resignation, upon the Acceptance thereof by the Bishop, shall have the same Effect, as regards the Formation of such distinct and separate Parish, as if the Incumbency of such Incumbent had ceased.

Mother Church. 59 G. 3. c. 134. s. 12.

142. Until the Order in Council takes effect for the Formation of a distinct and separate Parish, the Offices of the Church shall be performed within such intended Parish only by the Incumbent of the Mother Church or by his Curate licensed in that Behalf. Immediately upon such Order taking effect, such Offices shall be performed only by the Incumbent of such distinct and separate Parish.

Until Order in Council takes effect, Offices to be performed by Incumbent of Mother Church. 58 G. 3. c. 45. ss. 24. 27, 28.

143. The accustomed Fees within such distinct and separate Parish shall, until such Order in Council takes effect, belong to the Incumbent of the Mother Church, and shall, after the Order taking effect, belong to the Incumbent of such distinct and separate Parish.

Fees, &c. to belong to Incumbent of Mother Church. 58 G. 3. c. 45. ss. 27, 28.

144. The Church of every distinct and separate Parish shall, upon the Order in Council taking effect for the Formation thereof, be deemed either a Rectory, Vicarage, Donative, or Perpetual Curacy, and the Incumbent serving the same the Rector, Vicar, or Perpetual Curate thereof, or Person having the exclusive Cure of Souls therein, according to the Character of the original Church of the original Parish out of which such distinct and separate Parish is formed.

The Church of a distinct and separate Parish to follow the Character of the Church of the original Parish. 58 G. 3. c. 45. s. 19.

Incumbent to have exclusive Cure of Souls.

145. The Patronage of the Church of a distinct and separate Parish shall belong to the Patron of the Church of the Parish out of which such distinct and separate Parish is formed, unless he consent to vest such Patronage in some other Body or Person.

When Patronage belongs to the Patron of the Church. 59 G. 3. c. 134. ss. 13. 15. 3 G. 4. c. 72. s. 15. 1 & 2 Vict. c. 107. s. 15. 8 & 9 Vict. c. 70. s. 23. 11 & 12 Vict. c. 37. s. 4.

146. When an Extra-parochial Place has been formed into a distinct and separate Parish, the Patronage of the Church thereof shall, unless vested or agreed to be vested elsewhere, belong to the Bishop: Provided that nothing herein contained shall interfere with the Powers of the Commissioners, with the Consent of the Bishop, specially to declare the Patronage of a new Church built in an Extra-parochial Place, and endowed to their Satisfaction.

When Patronage belongs to the Bishop. 14 & 15 Vict. c. 97. s. 26.

3. *Erection of District Chapelries into separate Parishes.*

147. The Commissioners, with the Consent of the Bishop, and of the Patron and of the Incumbent of the Parish, District, or Place out of which any District Chapelry has been formed, or in case of the Refusal of any such Incumbent, then with the Consent of

A District Chapelry may, with certain Consents, be converted

into a separate Parish. 3 G. 4. c. 72. s. 16.

of the Bishop at the next Avoidance, may, if they think fit, convert such District Chapelry into a distinct and separate Parish, in any Case in which a suitable House of Residence and such Maintenance as the Commissioners shall deem competent can be procured for the Use of the Minister of such Parish and his Successors; and thereupon the Perpetual Curate of such District Chapelry shall become and be, without Presentation, Induction, Licence, or any other Proceeding, the Incumbent of such Parish.

Conversion to be under the Seal of the Commissioners, and registered. 3 G. 4. c. 72. s. 16.

148. Every such Conversion shall be made under the Seal of the Commissioners, and registered in the Registry of the Diocese, and enrolled in the Court of Chancery, and a Copy thereof lodged in the Chest of the original Parish, District, or Place, and in the Church of the distinct and separate Parish.

4. *Erection of Ancient Chapelries into separate Parishes.*

An Ancient Chapelry may be separated from the Parish upon the Chapel being endowed. 1 & 2 W. 4. c. 38. s. 23. 1 & 2 Vict. c. 107. s. 7.

149. If any Body or Person be willing to endow any Church situate at a considerable Distance from the Parish Church, having a Chapelry, Township, or District belonging or supposed to belong thereto, with such Provision as, in the Opinion of the Bishop, is sufficient to ensure a competent Stipend to the Minister of such Church or Chapel, the Bishop may, by Writing under his Hand and Seal, with the Consent of the Patron and Incumbent of the Parish, declare that such Church or Chapel, when so endowed, shall be separate from and independent of the Parish Church, and that the Chapelry, Township, or District belonging or supposed to belong to such Church so endowed shall thenceforth for all Spiritual Purposes be the same as a Parish from Time immemorial.

Church to be a Benefice Presentative. 1 & 2 W. 4. c. 38. s. 23.

150. Upon such Chapelry, Township, or District becoming a separate Parish, the Church thereof shall be a Benefice Presentative.

As to the Patron's Right of Nomination to such Chapel. 1 & 2 W. 4. c. 38. s. 24.

151. The Patron of such Parish Church may, with the Consent of the Incumbent thereof, make any Agreement with the Bishop touching the Right of nominating a Minister to the Church so endowed, such Agreement to be in Writing, and signed and sealed by the Bishop, Patron, and Incumbent; and the Right of nominating a Minister to such Church shall be exercised according to the Terms thereof.

Where the Incumbent of the Parish refuses his Consent. 1 & 2 W. 4. c. 38. s. 24.

152. If the Incumbent of the Parish wherein such Church so endowed is situate refuse his Consent to such a Separation or Agreement, the Declaration of such Separation and such Agreement, when signed and sealed by the Bishop and Patron, shall, nevertheless, be valid, and shall

shall take effect immediately after the next Avoidance of the Parish Church.

Declaration and Agreement to be registered. 1 & 2 W. 4. c. 38. s. 24.

153. Every such Declaration and Agreement shall be registered in the Registry of the Diocese.

When all Offices of the Church to be performed. 1 & 2 W. 4. c. 38. s. 23. 1 & 2 Vict. c. 107. s. 7.

154. Upon such Chapelry, Township, or District becoming a separate Parish, all the Offices of the Church shall be performed in the Church thereof.

Accustomed Fees to belong to Incumbent of the separate Parish.

155. The accustomed Fees arising within such separate Parish shall belong to the Incumbent thereof.

5. *Districts generally to become new Parishes when all the Offices of the Church may be performed therein.*

When Districts formed under Church Building Acts, &c. become new Parishes. 19 & 20 Vict. c. 104. s. 14.

156. If and as soon as Baptisms may be ministered, Banns of Matrimony published, Marriages solemnized, and Churchings performed according to the Laws and Canons in any consecrated Church to which a District already belongs or shall hereafter belong, such District shall be a new Parish, notwithstanding that the entire Fees in respect thereof are not payable to the Incumbent of such Church for his own Benefit; and the Incumbent of such Church shall, without any Form or Process of Law, become and be the Incumbent of such new Parish, and of the Church thereof.

Reservation of the Rights of the Incumbent of the Mother Church.

157. If at the Time of such District becoming a new Parish the Fees or any Part thereof, for the Performance of the Offices of the Church, shall belong or are payable to the Incumbent of any other Church, nothing in this Act contained shall affect any Rights of such Incumbent in respect of such Fees, Easter Offerings, and Dues, until the Avoidance of the Incumbent to whom such Fees shall belong or be payable, or the Relinquishment by him in Writing of such Fees.

Patronage not to be affected unless transferred.

158. Nothing herein contained shall affect the Patronage or Right of Nomination of the Incumbent of such new Parish, unless or until such Patronage or Right of Nomination shall be otherwise wholly transferred, or except so far as such Patronage shall be otherwise in part transferred under this Act.

PART V.

General Provisions as to Districts and new Parishes.

On Application to the Commissioners by Patron, Incumbent, and Vestry, a Parish, Chapelry, or District may be formed out of a Parish regulated by a Local Act. 14 & 15 Vict. c. 97. ss. 21. 29.

159. Where under any Local Act, in force on the *Seventh Day of August One thousand eight hundred and fifty-one*, a Parish cannot be brought within the Provisions of this Act touching the Formation thereout of a Parish, Chapelry, or District, and a Representation is made to the Commissioners by the Patron and Incumbent of such first-mentioned Parish, and by the Vestry of such Parish, that it will be for the spiritual Benefit of such Parish if it be brought within such Provisions, the Commissioners may, with the Consent of the Bishop, put in execution with respect to such Parish the Provisions of this Act relative to the Formation of any Parish, Chapelry, or District, and such Provisions shall thereupon be applicable thereto.

Application to Commissioners sufficient if signed by Incumbent and Vestry where Patronage is vested in Inhabitants or Parties above Thirty in Number. 14 & 15 Vict. c. 97. s. 21.

160. If the Patronage of the Church of such Parish be vested in or exercised by the Inhabitants thereof generally, or by any Body or Class of Persons exceeding *Thirty* in Number, such Application to the Commissioners shall be sufficient if signed by the Incumbent and by the Vestry of such Parish; and such Vestry may meet for the Purpose of deciding, whether it is expedient to make such Representation to the Commissioners, and if the Majority in Number of those present at such Meeting be in favour thereof, the Churchwardens of such Parish, or the Chairman of such Meeting, shall sign such Representation on behalf of such Vestry or Meeting.

Extra-parochial Places may be annexed to or made new Parishes or Districts, &c. 1 & 2 Vict. c. 107. s. 12.

161. Any Extra-parochial Place or any Part of any Extra-parochial Place may, by a Representation of the Commissioners, and by an Order of Her Majesty in Council, ratifying the same, be made a new Parish, or District Chapelry, or annexed to any new Parish, District Chapelry, or Consolidated Chapelry, upon the Formation thereof, or at any Time subsequent thereto, subject to the like Consents and to the same Rules and Regulations as are contained in this Act, relative to the Formation of new Parishes, District Chapelries, and Consolidated Chapelries respectively.

Inhabitants of new Parishes to be Parishioners thereof. 19 & 20 Vict. c. 104. s. 15.

162. The resident Inhabitants of every new Parish shall for all Ecclesiastical Purposes be Parishioners thereof, and of no other Parish, and such new Parish shall, for the like Purposes, have and possess all and the same Rights and Privileges, and be affected with such and the same Liabilities, as are incident or belong to a distinct and separate Parish, and with no other Liabilities; provided that nothing herein contained shall be taken to affect the legal Liabilities of any Parish regulated by a Local Act of Parliament, or the Security for any Loan of Money legally borrowed.

163. Every

163. Every new Parish and its Church shall be a Perpetual Curacy, and a Benefice with Cure of Souls, and its Incumbent shall be a Perpetual Curate and Body Politic and Corporate, with perpetual Succession, and may, without a Licence in Mortmain, receive and hold to himself and his Successors any Land or Property which any Body or Person may give or grant to him according to Law, and, subject to the Rights of the Bishop, shall have sole and exclusive Cure of Souls in and over his Parish, and the exclusive Right of performing all Ecclesiastical Offices for the Inhabitants therein; and thereupon the Perpetual Curate of such new Parish shall become and be, without Presentation, Induction, Licence, or any other Proceeding, Incumbent of such new Parish.

Minister of new Parish to be a Perpetual Curate and Body Politic and Corporate. 6 & 7 Vict. c. 37. s. 12. 16. 19 & 20 Vict. c. 104. ss. 14, 15.

164. The Money given at the Offertory in the Church of any new Parish, Consolidated Chapelry, or District Chapelry shall be disposed of by the Minister and Churchwardens of such Church in the same Manner as the Money given at the Offertory at any ancient Parish Church is by Law to be disposed of by the Minister and Churchwardens thereof.

Disposition of the Money given at the Offertory. 13 & 14 Car. 2. 8 & 9 Vict. c. 70. s. 6.

165. The Freehold of the Site of the Church of every new Parish, Consolidated Chapelry, and District Chapelry, and of the Churchyard, Burial Ground, and Vaults belonging thereto, with the Rights, Easements, and Appurtenances thereof (but in case the same shall be vested in any Vestry by any Local Act of Parliament then not without the Consent of such Vestry), and the House of Residence, with the Appurtenances thereof, and all the Land and Property belonging to such Church, or held by or vested in any Body or Person in trust for the exclusive Benefit of the Incumbent of such Church, shall by virtue of this Provision vest in such Incumbent and his Successors for ever, and be held in right of such Incumbency.

Freeholds of Sites of Churches, Burial Grounds, and Parsonages of new Parishes to vest in Incumbents. 19 & 20 Vict. c. 104. s. 10.

166. Endowments which shall be provided for the Use and Benefit of any Church or the Incumbent thereof, under this Act, shall, unless otherwise permitted by this Act, be settled and assured by the Body or Person providing the same, to the Satisfaction of the Commissioners, by such Deeds and in such Manner as the Commissioners shall from Time to Time direct, unto and to the Use of such Incumbent and his Successors for ever; and such Deeds shall be valid, whether such Church shall be vacant or full of an Incumbent.

Lands, Tithes, &c. and other Endowments to vest in Incumbent and his Successors. 7 & 8 Vict. c. 94. s. 11. 19 & 20 Vict. c. 104. s. 23.

167. The Laws and Customs of the United Church as to Presentation, Nomination, Institution, Induction, Collation of Licence, Jurisdiction of the Bishop and other Jurisdiction, shall apply to every Incumbent of any new Parish, District Chapelry, or Consolidated

Incumbents subject to the Laws relating to Presenta-

tion, Institution, &c. 58 G. 3. c. 45. ss. 20. 25.

Chapelry, and to all Persons presenting or appointing or having a Right to present or appoint him: Provided that no Incumbent appointed to any Donative or Perpetual Curacy shall be removed at the Pleasure of any Body or Person having the Right of Appointment thereto.

Offices of the Church to be performed in the Church of a new Parish, and Fees to be received by the Incumbent. 6 & 7 Vict. c. 37. s. 15. 19 & 20 Vict. c. 104. ss. 2, 14.

168. The Offices of the Church may be performed in the Church of every new Parish, and such Fees shall be due and payable in respect thereof as shall have been fixed by the Commissioners, or as shall be fixed by the Chancellor of the Diocese in which such new Parish shall be situate, and which Fees such Chancellor is hereby required to fix accordingly; and the like Easter Offerings and Dues may be received within the Limits of such new Parish by the Perpetual Curate thereof as are and were, at and before the Time of the new Parish becoming such, payable to the Incumbent of the Church of the Parish, District, or Place out of which such new Parish was formed.

Churchwardens to be chosen. 6 & 7 Vict. c. 37. s. 17. 19 & 20 Vict. c. 104. ss. 2. 14.

169. Within *Twenty-one* Days from the Time that any new Parish, District Chapelry, or Consolidated Chapelry is formed, or shall become such, Two fit Persons, being Members of the United Church, shall be elected and admitted Churchwardens for such new Parish, District Chapelry, or Consolidated Chapelry, one being chosen by the Perpetual Curate or Incumbent thereof, and the other by the Majority of the Inhabitants thereof voting at such Election, and having a similar Qualification to that which would entitle Inhabitants to vote at the Election of Churchwardens for the original Parish.

Mode of Election. 6 & 7 Vict. c. 37. s. 17.

170. Such Election shall take place at a Meeting to be summoned in such Manner in all respects as such Perpetual Curate or Incumbent shall direct; and the Successors in Office of such Churchwarden shall be appointed at the then next usual Period of appointing Parish Officers; and at the like Time in every Year Two such Persons shall thenceforward be chosen by the Perpetual Curate for the Time being and Inhabitants so summoned and assembled; and the same Rule shall apply to all Elections, after the passing of this Act, of Churchwardens for any new Parishes, District Chapelries, or Consolidated Chapelries, formed under any of the former Church Building Acts or New Parishes Acts, before the passing of this Act.

Duties. 6 & 7 Vict. c. 37. s. 17.

171. Every Person so chosen shall be admitted, and shall collect, receive, and appropriate the Pew Rents, if any, fixed by the Commissioners, or otherwise payable for the Pews and Seats in the Church of such new Parish, District Chapelry, or Consolidated Chapelry (as the Case may be), and pay the Stipend or Salary (if any) assigned thereout to the Incumbent and Clerk (or either of them)

them) of the said Church, and shall do all Things pertaining to the Office of Churchwarden as to Ecclesiastical Matters in the new Parish, District Chapelry, or Consolidated Chapelry; provided that nothing herein contained shall render any such Churchwardens liable or competent to perform the Duties of Overseer of the Poor in respect of their Office of Churchwarden.

Clerk and Sexton to be appointed by Incumbent. 19 & 20 Vict. c. 104. s. 9.

172. The Parish Clerk and Sexton, if any, of the Church of every new Parish under this Act, shall be appointed by the Incumbent for the Time being of such Church, and may be by him at any Time removed, at the Will of such Minister.

Right to Pews in Mother Church not to be retained after Occupation of Sittings in Church of new Parish. 19 & 20 Vict. c. 104. s. 5.

173. Every Person resident within the Limits of any new Parish who shall claim and have assigned to him Sittings in the Church of such new Parish, shall thereby surrender, as to any Right that he may have possessed, an equal Number of Sittings in the Church of the original Parish or other Ecclesiastical Division out of which such new Parish shall have been taken, unless such last-mentioned Sittings be held by Faculty or under an Act of Parliament.

Pew Rents may be applied in certain Cases towards Repair of Church of new Parish and Endowment of Ministers. 19 & 20 Vict. c. 104. s. 6.

174. The Commissioners may, from Time to Time, if it appear to them that sufficient Funds cannot be provided from other Sources, but not otherwise, with the written Consent of the Bishop, order under their Common Seal that annual Rents may be reserved and taken in respect of any Pews or Sittings in any Church to or for which a District may have been assigned since the *Twenty-eighth Day of July One thousand eight hundred and fifty-six*, under the former New Parishes Acts or may hereafter be assigned under this Act; and such Rents shall be charged, levied, and taken by the Churchwardens for the Time being of such Church after a Rate or Scale which shall be specified in such Order, and the Proceeds not otherwise appropriated by Law shall be applied towards the Repair and Maintenance of the same Church, and the Maintenance of the Minister and the Services thereof, and the Endowment of such Church, in such Manner as shall be specified in such Order, and to no other Uses.

One Fifth of the Pews or Sittings to be Free Sittings. 19 & 20 Vict. c. 104. s. 6.

175. *One Fifth* Part at least of the whole Number of Pews or Sittings in every such Church as last before mentioned shall be Free Sittings, and it shall be shown to the Satisfaction of the Commissioners that such Free Sittings will, with respect to Position and Convenience, be as advantageously situated as those for which a Rent may be fixed and reserved.

Upon a permanent Endowment being pro-

176. Upon a permanent Endowment being provided for any such Church in which Pew Rents have previously been authorized to be

vided for Church of new Parish, a proportionate Amount of Sittings to be declared free, or Scale of Pew Rents to be reduced. 19 & 20 Vict. c. 104. s. 7.

taken, and upon such Endowment being approved of by the Commissioners, they may, by an Order under their Common Seal, with the Consent of the Bishop make an equivalent Reduction in the total Amount of the Rents authorized to be taken for the Pews or Sittings in such Church, if the same be not appropriated by Law for specific Purposes, either by a Reduction of the Rate or Scale, or by declaring certain specific Pews or Sittings theretofore chargeable with Rents to be absolutely free.

Such Alteration not to affect Loan on Pew Rents. 19 & 20 Vict. c. 104. s. 6.

177. If any Sum of Money shall have been borrowed under the Authority of any Act of Parliament or Order in Council upon the Security of Pew Rents, such Order of the Commissioners shall not take effect until after the Repayment of every Sum so charged or chargeable.

Pew Rents may be altered. 19 & 20 Vict. c. 104. s. 8.

178. The whole or any Part of the Provisions contained in any such Order made by the Commissioners may be from Time to Time rescinded by them, with the Consent of the Bishop; but no Alteration affecting the Emoluments of the Incumbent of any Church shall take effect until the next Avoidance of the Benefice, unless with his Consent in Writing.

PART VI.

Substitution of new for old Parish Churches.

Commissioners, with Consent of Bishop, &c., may make any Church or Chapel the Parish Church of any Parish, and the Parish Church a District Church or Chapel of Ease. 1 & 2 Vict. c. 107. s. 16. 2 & 3 Vict. c. 49. s. 9.

179. The Commissioners may, with the written Consent of the Bishop, and the Patron and Vestry of any Parish, District, or Place, direct by an Instrument under their Common Seal that any Church in such Parish, District, or Place (not being a Church the Patronage of which is vested in the Body or Person endowing or building the same, or their or his Nominees,) shall become the Church of such Parish, District, or Place, in the Stead of the old and existing Church thereof; and such Church so substituted for such old and existing Church shall become and be the Church of such Parish, District, or Place, as effectually in relation to all Rights, Emoluments, Endowments, Dues, Privileges, and all other Matters and Things, Civil or Ecclesiastical, theretofore belonging to such original Church, or Patron or Lay Impropriator (if any) thereof, as if the same had been always the Church of such Parish, District, or Place.

Exchange of Endowments and Emoluments. 1 & 2 Vict. c. 107. s. 16.

180. The Commissioners may direct the Transfer of all or any Part of the Endowments, Emoluments, or Rights of or belonging to the old and existing Church, or to the Incumbent for the Time being thereof, to the Church so substituted, and to the Incumbent thereof for

for the Time being, and his Successors; and the Trustees (if any) of any such old and existing Church, or of any Rights, Emoluments, and Endowments of or belonging thereto or to the Incumbent thereof for the Time being, are hereby required to transfer all such Rights, Emoluments, and Endowments, according to the Direction of the Commissioners, to such substituted Church, or to the Incumbent thereof; and from and after any such Transfer all Glebe Lands, Tithes, Emoluments, Fees, and every Matter or Thing, whether Real or Personal, and all Rights and Privileges, wherewith any such old and existing Church is or was endowed, or to which the Incumbent thereof is or was entitled, shall be vested in and belong to the Incumbent for the Time being of such substituted Church, and his Successors.

The original Church shall stand in the Place of the substituted Church. 1 & 2 Vict. c. 107. s. 17.

181. The Incumbent of such Parish, District, or Place next succeeding after such Substitution and Transfer, and his Successors, shall be the Rector, Vicar, or Perpetual Curate, as the Case may be, of such substituted Church, and the Body or Person who for the Time being would have had the Right to present or appoint a Spiritual Person to the old or existing Church in case such Substitution and Transfer had not been made shall thenceforth, when any Vacancy occurs, have the like Right to present or appoint a Spiritual Person to such substituted Church.

Existing Church to comprehend Two Churches forming the Church of One Benefice.

182. The Term old and existing Church, in the Provisions hereinbefore contained, shall include and comprehend both or either of Two Churches held together and forming the Church of One Benefice.

No Instrument of Substitution to take effect until after next Avoidance. 1 & 2 Vict. c. 107. s. 16.

183. No such Instrument of Substitution or Transfer shall take effect until after the next Avoidance of such old and existing Church, unless with the Consent in Writing of the Incumbent thereof, in which Case such Incumbent shall be the Rector, Vicar, or Perpetual Curate, as the Case may be, of the Church so substituted, instead of Rector, Vicar, or Perpetual Curate of the old and existing Church, without any Presentation, Institution, Induction, Collation, or other Form of Law.

Where the Patronage of the Church proposed to be substituted is not in the Patron of the Parish Church. 2 & 3 Vict. c. 49. s. 9.

184. When the Advowson of or Right of Presentation or Nomination to the Church proposed to be substituted for the Church of any Parish, District, or Place belongs to any other Body or Person than to the Patron of such Church, no such Substitution shall be made without the Consent in Writing under their respective Hands and Seals of the Patron of the Church proposed to be substituted.

 185. The

Repair of Chancels. 1 & 2 Vict. c. 107. s. 16.

185. The Chancel (if any) of such original Church shall continue to be repaired in such Manner and by the same Body or Person as at the Time of the Substitution was by Law or Custom liable to the Repairs thereof.

Until Order in Council take effect, Church to be a Chapel of Ease. 1 & 2 Vict. c. 107. s. 16.

186. Unless or until such Order in Council is made, such Church shall remain and be a Chapel of Ease, and the Right of Nomination to such Chapel, so long as it shall remain a Chapel of Ease, shall vest in the Incumbent of the Parish, District, or Place. Such old and existing Church may on or at any Time after such Substitution or Transfer be made under this Act the Church of any Parish, District, or Place, by an Order in Council.

Old Church may be partly pulled down.

Application of the Produce of the Sale of the Materials.

187. A Faculty may be granted for pulling down such Part of any such old and existing Church as may be deemed expedient, and the Materials of the Part thereof so pulled down shall be sold by the Churchwardens of the Parish, District, or Place in which such Church is situate, and the Produce of the Sale shall be applied by them in the first instance in putting the Remainder of such Church in repair, and the Residue (if any) of such Produce shall be vested in such Churchwardens in trust to apply the same towards keeping such Fabric in repair, and the Cost of keeping such Church in repair shall be defrayed out of the Church Rates of such Parish, District, or Place, in the same Manner as before a Part of such Church was pulled down.

Offices of the Church to be performed as heretofore. 1 & 2 Vict. c. 107. s. 16.

188. Such Offices of the Church as were theretofore performed in the old and existing Church shall thenceforth be performed in the substituted Church.

TheCommissioners may provide for Ministers of such Churches out of the Pew Rents. 1 & 2 Vict. c. 107. s. 18.

189. The Commissioners, under their Common Seal, may, with the Consent of the Bishop, make, out of the Pew Rents of either of such Churches, such Provision as they may deem expedient for the Maintenance of the Incumbents or Ministers and Clerks of such respective Churches: Provided that nothing herein contained shall affect the Rights of Persons holding Pews free of Rent by Faculty or Prescription in any such old and existing Church.

Commissioners may, in certain Cases and with certain Consents, direct the Transfer of the Endowment of anoldChurch

190. Where a new Church has been already built or is hereafter built in any Parish, District, or Place, and where the Bishop, Patron, and Incumbent certify to the Commissioners that it will be for the Convenience of such Parish, District, or Place that such new Church should be substituted for the old or existing Church thereof, the Commissioners may, by an Instrument under their Common Seal, with the Consent of such Bishop, Patron, and Incumbent under their Hands

Hands and Seals, to declare that the new Church, after being consecrated, shall be substituted for the old or existing Church, and to transfer the Endowments, Emoluments, or Rights belonging to such old or existing Church, or to the Incumbent or Minister thereof, to such new Church and to the Incumbent or Minister thereof and his Successors, and the Trustees, if any, of such old or existing Church, or of any Rights, Emoluments, or Endowments belonging thereto, or to the Incumbent or Minister thereof, shall transfer the same according to the Direction of the Commissioners.

to a new Church, and the old Church may be pulled down by Faculty. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. s. 1.

191. Immediately from and after any such Transfer all Glebe Lands, Tithes, and other Endowments, Emoluments, Fees, and Profits, and every Matter or Thing, whether Real or Personal, and all Rights and Privileges wherewith the old or existing Church is or was at the Time of such Substitution endowed, shall be vested in and belong to the Incumbent or Minister for the Time being of such new Church and his Successors, in as ample a Manner as the Incumbent or Minister of the old or existing Church might have enjoyed the same if such Transfer had not taken place, and the Incumbent or Minister of the old or existing Church shall thereupon be the Rector, Vicar, Perpetual Curate, or Minister, as the Case may be, of such new Church, instead of Rector, Vicar, Perpetual Curate, or Minister of the old or existing Church, without any Presentation, Institution, Induction, Collation, or other Form of Law.

Glebe Lands, &c. belonging to the old Church to be vested in the Incumbent of the new Church. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. ss. 1, 2.

192. Such new Church shall thereupon have the same Rights and Privileges as such old or existing Church, and such Offices of the Church as were performed and celebrated in such old or existing Church shall be performed and celebrated in such new Church.

New Church to have the same Rights as the old Church. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. s. 1.

193. At any Time within *Six* Months after any such Substitution the Bishop may, of his own mere Motion, issue, or, if thereunto required by any Person claiming to hold a Pew or Seat free of Rent in such old or existing Church by Faculty or Prescription, shall issue, a Commission under his Hand and Seal, directed to the Archdeacon of the Archdeaconry in which such old or existing Church is situate, and to any Two Incumbents of Parishes situate within such Archdeaconry, and to any Two Laymen nominated by the Churchwardens of such Church, who are hereby required to nominate for such Purpose Two fit Persons not claiming any such Pew or Seat.

Claims of Persons to Pews in the old Church to be investigated, and if proved such Persons to have Pews in the new Church, on the same Terms as in the old Church. 8 & 9 Vict. c. 70. s. 1.

194. Such Commission shall direct such Commissioners to inquire into the Rights of Persons, if any, who claim to hold any such Pews or Seats in such old or existing Church by Faculty or Prescription; and the Commissioners, or any Three or more of them, of

Issuing of Commission to ascertain Rights to Pews or Seats.

8 & 9 Vict. c. 70. s. 1.

whom such Archdeacon shall be One, shall, as soon as conveniently may be, proceed to examine into such Claims, after giving *Fourteen* Days previous Notice thereof, by affixing a Copy of such Commission on the Church Doors of such new Church; and such Notice shall specify the Day and Time and Place on which such Inquiry and Examination are to be made.

Return to be made to the Bishop of Persons entitled to Pews and Seats. 8 & 9 Vict. c. 70. s. 1.

195. After examining such Claims, the Commissioners, or the Majority of them, shall transmit in Writing under their Hands to the Bishop the Names and Residences of the Persons who have substantiated their Claims to such Pews or Seats, and if the Bishop be satisfied therewith he shall assign, under his Hand and Seal, to such Parties respectively, convenient Pews or Seats in such new Church, and such Seats so assigned shall be held and enjoyed by the Parties entitled thereto in the same Manner as the Pews or Seats to which they had or would have been entitled in such old or existing Church.

Appeal against Decision of Commissioners. 8 & 9 Vict. c. 70. s. 1.

196. If any Party find himself aggrieved by the Finding of such Commission, the Bishop shall have Power to afford Redress, by allotting to such Party Pews or Seats in such new Church, if, in his Judgment, the Justice of the Case require it.

The old Church may be pulled down, &c. Preservation of Tombstones, Monuments, &c. 8 & 9 Vict. c. 70. s. 1.

197. The old or existing Church, if any, may, if the Bishop think fit, after the Expiration of such *Six* Months, if such Claims shall have been satisfied, be wholly or partly pulled down, under a Faculty to be granted for that Purpose; and the Bishop shall in that Case take care that all Tombstones, Monuments, and Monumental Inscriptions in such Church so pulled down are as far as may be preserved by the Churchwardens, at the Expense of the Parish, District, or Place, or, if the Bishop deem it expedient, the same shall be transferred, at the Expense of the Parish, District, or Place, to such new Church.

Pew Rents to be fixed by Commissioners. 8 & 9 Vict. c. 70. s. 1.

198. In case such substituted Church has been built wholly or in part out of the Funds placed at the Disposal of the Commissioners under the former Church Building Acts or this Act, Rents for the Pews or Seats in such Church shall only be fixed by the Commissioners under this Act for that Number of Pews or Seats therein which shall exceed the Number of Pews or Seats provided in the old or existing Church.

Incumbent of old Church and his Successors to be Incumbent of new Church. 8 & 9 Vict. c. 70. s. 2

199. The Body or Person who for the Time being would have had a Right of presenting or appointing the Incumbent or Minister of such old or existing Church in case such Transfer had not been made shall, in lieu thereof, when any Vacancy occurs, have such and the

the like Right of presenting or appointing the Incumbent or Minister of such new Church as such Body or Person could have had with respect to the old or existing Church, and the Rector, Vicar, Perpetual Curate, or Minister of such old or existing Church succeeding after such Transfer, and his Successors, shall be the Rector, Vicar, Perpetual Curate, or Minister (as the Case may be) of such new Church.

No new Church to be substituted for an old Churchwhen Advowson belongs to any other Person than Patron of the original Church. 8 & 9 Vict. c. 70. s. 1.

200. Nothing herein contained shall authorize the Substitution of any new Church in lieu of such old or existing Church when the Advowson of or Right of Nomination to such new Church shall belong to any other Body or Person than to the Patron of such old or existing Church, without the Consents in Writing of the Patron or Incumbent or Minister of such new Church.

Where any Part of a Cathedral Church has been accustomed to be used as a Parochial Church, such Church may, with certain Consents, be made a new Church. 8 & 9 Vict. c. 70. s. 4.

201. Where any Part of a Cathedral Church has been accustomed to be used as a Parochial Church, the Commissioners may, with the Consents of the Bishop and Dean and Chapter of such Cathedral Church, and also with the Consents of the Patron and Incumbent or Minister of such Church, transfer the Rights, Emoluments, Tithes, and other Endowments (if any) belonging to the Incumbent of such Church, to any new Church which has been or hereafter may be built, and which is situate in the Parish where such Part of such Cathedral is or of which it is deemed to be the Parish Church.

Rights, Privileges, &c. to be transferred. 8 & 9 Vict. c. 70. s. 4.

202. In case of such Transfer the Provisions herein-before contained touching the Rights, Privileges, Succession, and Appointment of the Incumbent or Minister of a new Church substituted for an old Parochial Church, and the Performance of the Offices therein, and the Examination into the Claims of Parties claiming to hold Pews or Seats by Faculty or Prescription in the old Parochial Church, and the Assignment of Pews or Seats to those who have substantiated such Claims, as herein-before mentioned, shall apply to such new Church, which after such Transfer shall become the Parish Church in lieu of the old Parochial Church, so forming a Part of such Cathedral Church; and such new Church and the Incumbent thereof shall, after such Transfer, be subject to the same ordinary and Ecclesiastical Jurisdiction as the old Parochial Church and the Incumbent or Minister thereof were or could have been respectively subject to.

Liabilities for Repairs, &c. 8 & 9 Vict. c. 70. s. 4.

203. The Part of the Cathedral Church vacated by the Substitution of such new Church for the same shall thenceforth remain and be deemed to be Part of the Cathedral Church, in the same Manner as if it had never been used as a Parochial Church, and shall thenceforth be subject to the same Control and Superinten-

dence, and to the same Laws as to Repairs, as may be in force with respect to the Cathedral Church, and the Parish shall thenceforth be exempt from all further Liability (if any) to keep the same in repair; provided that the Party liable to the Repair of such Part of such Cathedral Church whilst it was so used as a Parochial Church shall continue to be liable to the Repairs of the new Church.

PART VII.

Rebuilding and enlarging Churches.

Powers for rebuilding or enlarging the Church. 59G.3.c.134. s. 40.

204. The Churchwardens of any Parish, District, or Place, or Persons appointed to act as Churchwardens therein, by the Vestry thereof, may take down the existing Church thereof, and rebuild it upon the same or a new Site, by means of any Funds given or provided by voluntary Donation or Subscription, with the Consent of the Vestry at a Meeting specially called for the Purpose, and with the Consent also under the respective Hands of the Bishop, Incumbent, Patron, and Lay Impropriator, if any, of such Church.

One Half of the additional Accommodation to be set apart for Free Seats. 58 G. 3. c. 45. s. 59. 59 G. 3. c. 134. s. 40.

205. *One Half*, at least, of the additional Accommodation obtained by the rebuilding, enlarging, or otherwise extending the Accommodation of any such Church shall be set apart for Free Seats.

Rights by Faculty or Prescription preserved. 59 G. 3. c. 134. s. 40.

206. Persons possessing by Faculty or Prescription the Right to any Pews or Sittings within such Church so to be taken down shall have Pews or Sittings as near as may be in the same Situation and of equal Accommodation allotted and set apart for them in such new Church, and to be held by them respectively in like Manner as in the old Church, and all Tombstones, Monuments, and Monumental Inscriptions in such Church so to be taken down shall be carefully preserved by the Churchwardens, and shall be set up by them, at the Charge of the Parish, in such new Church, as near as Circumstances will admit in the same Situations as in the old Church.

PART VIII.

Conversion of Vicarages into Rectories.

The Commissioners may convert a Vicarage or the Division of a Vicarage into a Rectory.

207. The Commissioners may convert a Vicarage of any Parish or Place, or any of the separate Divisions formed thereout under the former Church Building Acts or this Act, into a Rectory instead of a Vicarage, whenever the Owner beneficially entitled in Fee Simple to the Rectory or Tithes (if an Impropriate Rectory), or the Patron

so

so entitled of a Sinecure Rectory, and also the Incumbent of the Sinecure Rectory of such Parish or Place, if the same be not void at the Time of any such Conversion, and the Person (if any) beneficially entitled to the absolute Interest in any Lease granted of the Sinecure Rectory, or Glebe or Tithes thereof, consents to restore, release, and reunite the Tithes and Glebe and all other Rectorial Rights, Dues, and Emoluments of any such Parish or Place, or of any such Proportion thereof as is satisfactory to the Commissioners, to the Incumbent of such Parish or Place and his Successors for ever; and such Surrender or Restoration shall be made by any Instrument that the Commissioners shall direct.

In case of Impropriate Rectory the Owner must consent. In case of Sinecure Rectory the Patron and Incumbent must consent. 3 G. 4. c. 72. s. 13.

208. The Commissioners shall, under their Common Seal, direct such Conversion of any such Vicarage into a Rectory, from the Period specified in such Instrument, and upon the Conditions as to the Transfer, Restoration, or reuniting of Tithes, Glebe, or other Rectorial Rights, Dues, and Emoluments therein mentioned; which Instrument shall be registered in the Registry of the Diocese in which the Parish or Place shall be locally situate, and enrolled in the High Court of Chancery.

Instrument of Conversion to be registered and enrolled. 3 G. 4. c. 72. s. 13.

209. Such Parish or Place, or the separate Divisions formed thereout under the former Church Building Acts or this Act, shall be deemed a Rectory or Rectories, without Prejudice to the Rights of any other Persons; and the Incumbents of any such Vicarages shall thereupon become and be Rectors of such Parishes or Places, or the separate Divisions thereof, without any new Induction or other Proceeding whatever, and shall be entitled to use all such Remedies as if they had been inducted thereto, for the Recovery of their Tithes, Glebe, and all other Rectorial Rights, Dues, and Emoluments, as Rectors of such Parishes, Places, or Divisions.

Parish or Place to be deemed a Rectory. 3 G. 4. c. 72. s. 14.

210. The Commissioners, before any such Transfer can be completed, may accept and confirm any such Restoration or Release and Reunion of any such Tithes, and accept and record the Consents or Engagements in relation thereto, and may proceed to the completing of any such Transfer for the Purpose of converting any such Vicarage into a Rectory; and all such Consents shall be binding upon the Heirs, Successors, Executors, and Administrators respectively of any Person giving the same, if any Death or Change should thereafter occur in any Patronage or Incumbency, as if the Consent had been given and Transfer made by the Impropriator, Patron, or Sinecure Rector and Incumbent, if any, and Tenant for the Time being, when the Arrangement and Division is completed.

Consents to be binding. 3 G. 4. c. 72. s. 13.

Liability of Incumbent for the Maintenance and Repair of House of Residence. 3 G. 4. c. 72. s. 13.

211. No Incumbent shall in any such Case become liable to the Maintenance or Repair of more than One House of Residence in any such Parish or Place; and when in any such Parish or Place there is more than One House belonging to the Church thereof, the Bishop shall decide which shall thereafter be deemed the House of Residence, and be maintained and repaired as such; and the Order of the Bishop in relation thereto shall be registered in the Registry of the Diocese, and a Duplicate Copy of such Order shall be deposited and be kept in the Chest of the Church of such Parish.

Sinecure Rector may release Part of Rectorial Glebe, &c., and retain the Remainder in Fee Simple, for the Purpose of converting any Vicarage into a Rectory by the Commissioners. 3 G. 4. c. 72. s. 14.

212. If the Commissioners think proper to convert into a Rectory the Vicarage of any Parish or Place, or separate Division of a Parish or Place, which shall be so divided, or in which a new Church shall have been erected under the former Church Building Acts or this Act, and the Possessor of the Sinecure Rectory of such Parish or Place for Two or more Lives, by virtue of a Lease granted thereof by a Rector with the Consent of the Patron and Bishop, be desirous of retaining any Manor or other Hereditaments, being the Glebe Land or Part of the Glebe Land of such Rectory, and be willing to surrender all his Estate in the Tithes, and the Residue (if any) of the Glebe Land of such Rectory, on condition that such Manor and other Hereditaments be vested in him in Fee Simple absolutely, then the Commissioners may, with the Consent of the Patron of such Rectory, being absolutely and beneficially entitled thereto, and the Incumbent thereof (if any), by any Instrument under the Seal of the Commissioners, and sealed and delivered by such Patron and Incumbent (if any), upon the Execution by such Possessor of such Rectory, together with the Patron and Incumbent (if any) thereof, and of the Commissioners, of such Instruments as herein-before mentioned or referred to, for surrendering, releasing, and vesting all the Rectorial Tithes and Glebe Land (except the Manor and other Hereditaments to be retained as aforesaid), to release and convey such Manor and other Hereditaments to such Possessor or such other Person as he shall in that Behalf direct, his Heirs and Assigns.

Instruments of Surrender, &c. to be enrolled. 3 G. 4. c. 72. s. 14.

213. Such Instruments shall be enrolled in the High Court of Chancery, and upon the Execution thereof the Manor and other Hereditaments comprised therein, and the Fee Simple thereof, shall be vested in the Person to whom the same shall be conveyed, his Heirs and Assigns, but shall be subject to Tithes, in the same Manner as if the same had never been Part of the Glebe Land of such Rectory.

PART

PART IX.

Assignment and Transfer of Rights of Patronage.

Patronage of a separate District without a specified Church, before and after it becomes a new Parish, may be conferred upon Contributors to Endowment. 6 & 7 Vict. c. 37. s. 20.

214. It shall be lawful, by the Authority of a Representation of the Commissioners and an Order in Council ratifying the same, at any Time to assign to any Body or Person, or the Nominee of any Body or Person, either in perpetuity or for One or more Nomination or Nominations, the Right of Patronage of any separate Parochial District, (as well before as after it shall have become a new Parish,) for which no Church was specified in the Scheme for its Formation, upon Condition of such Body or Person contributing, in such Proportion and Manner as shall be approved by the like Authority, to the permanent Endowment of the Minister or Perpetual Curate, or towards providing a Church for such separate Parochial District or new Parish.

Patronage may be conferred in return for certain Endowments. 6 & 7 Vict. c. 27. s. 20. 19 & 20 Vict, c. 104. s. 16.

215. It shall be lawful, by the like Authority of a Representation and Order in Council, with the Consents herein-after contained, at any Time to transfer, either in perpetuity or for One or more Nominations, to any Body or Person, or their or his Nominee, the Right of Patronage of any Church to which a District shall belong, the Patronage whereof is vested in the Incumbent of the original Parish, District, or Place out of which such District shall have been taken, by reason of his being such Incumbent, and not of any private Right, or of any new Parish other than a new Parish such as is mentioned in the Section herein-before lastly contained, or of any existing Parish or District having neither Incumbent nor Patron, or of any Benefice the Patronage of which is vested in the Crown or in the Duke of Cornwall, or in the Chancellor of the Duchy of Lancaster, or in any Ecclesiastical or Lay Corporation, aggregate or sole, upon Condition of such Body or Person contributing, in such Proportion and Manner as shall be approved by the like Authority, to the permanent Endowment of the Minister or Perpetual Curate or Incumbent, or towards providing a Church for such District or new Parish or Benefice.

The Cases in which the Patronage of such Benefices may be transferred. 19 & 20 Vict. c. 104. s. 16.

216. No Transfer of the Right of Patronage of such Benefices respectively shall be made so long as the permanent annual Endowment of such Benefices respectively shall exceed *One hundred Pounds*, or the annual Income of the same from all Sources the Sum of *Two hundred and fifty Pounds*, such Income to be calculated by the Commissioners in the Manner provided by the Eighth Section of an Act of the First and Second Years of the Queen, Chapter One hundred and six, and when any Portion of such Income shall arise from Pew Rents, the Value of such Portion shall

be calculated upon an Average of the *Three* Years then last preceding.

Transfer of Patronage in perpetuity to be made with certain Consents. 19 & 20 Vict. c. 104. s. 18.

217. Such Transfer in perpetuity shall be made in the following Cases, with the following Consents only; that is to say, in the Case of a Benefice in the Patronage of the Crown, or the Chancellor of the Duchy of Lancaster, or of the Duke of Cornwall, or of a Bishop, or of any Lay or Ecclesiastical Corporation Aggregate, with the Consent of the Patron thereof; and in the Case of a Benefice in the Patronage of an Incumbent of any other Benefice, with Consent of the Bishop of the Diocese, and also with Consent of the Patron of such other Benefice, if in private Patronage; and in the Case of any Parish or District having neither Incumbent nor Patron, with the Consent of the Bishop.

Amount of Endowment necessary for Transfer of Patronage in perpetuity. 19 & 20 Vict. c. 104. s. 17.

218. No Transfer of any Rights of Patronage shall be made in perpetuity, under the Provision in that Behalf herein-before contained, for any less Consideration than the building a Church as and for the Church of such Parish, District, or Benefice, and providing for the permanent Endowment of such Church a clear yearly Sum of at least *Forty-five Pounds*, or the permanently endowing the Church of such Parish, District, or Benefice with a clear yearly Sum of *One hundred and fifty Pounds;* and the Commissioners may, in lieu of such Sums, or as Part thereof, accept any Gift of Land or Property which they shall judge to be suitable in its Nature and equivalent to such Sums in each Case respectively, or to the Part thereof in lieu of which it shall be accepted.

In certain Cases Patronage acquired in perpetuity not to be sold.

Penalty of Lapse for so doing. 19 & 20 Vict. c. 104. s. 21.

219. Whenever the Right of Patronage of any such Benefice shall have been transferred in perpetuity to any Body or Person, and whenever such Benefice shall, at the Time of such Transfer of Patronage, be already permanently endowed with an annual Sum of not less than *One hundred Pounds*, or whenever the annual Income of such Benefice from all Sources shall, when calculated upon an Average of the *Three* Years immediately preceding the Augmentation, amount to *One hundred and fifty Pounds*, no subsequent Sale, Assignment, or other Disposition of such Right of Patronage by any Body or Person whatsoever, for any valuable Consideration, shall be made until *Thirty* Years next after such Transfer, unless the entire Proceeds be legally secured to the further permanent Augmentation of such Benefice, but every such Sale, Assignment, or other Disposition shall be illegal, and every Presentation, Collation, Admission, Institution, or Induction thereupon shall be void, and the Right of Patronage of such Benefice shall thereupon for that Turn lapse to the Bishop.

220. When

Notice to be sent to Patrons. 19 & 20 Vict. c. 104. s. 19.

220. When the Commissioners intend to make any Transfer of Patronage under this Act, they shall give at least *One Month's* Notice in Writing of that Intention to the Patron thereof and to the Body or Person whose Consents are herein required, and such Notice shall be served as herein-after provided.

Saving of Rights of Incumbents on the 29th of July 1856 until Avoidance. 19 & 20 Vict. c. 104. s. 21.

221. If, on the *Twenty-ninth Day of July One thousand eight hundred and fifty-six*, the Patronage of any Church to which a District shall have been assigned under any of the former Church Building Acts, or under the former New Parishes Acts, was vested in the then Incumbent of the original Parish, District, or Place out of which such District was taken, such Incumbent shall not be deprived of the Patronage of such Church by any Transfer of the same during his Incumbency without his Consent.

Patronage may be vested in certain Cases in Incumbent of original Parish. 19 & 20 Vict. c. 104. s. 22.

222. Upon the Formation of any separate Parochial District with a specified Church, the Commissioners may, until the Right of Patronage of the Church thereof shall be transferred in consideration of an Endowment assign such Right of Patronage, if they shall see fit, to the then Incumbent of the original Parish out of which such separate Parochial District shall have been taken, for the Term of his Incumbency, and if such separate District shall have been formed out of more than One Parish, then to One or other of the then Incumbents of such Parishes for the Term of his Incumbency, as they shall think fit.

Appointment, Number, and Qualification of Trustees. 19 & 20 Vict. c. 104. s. 24.

223. Where the Commissioners shall make any Assignment or Transfer of any Right of Patronage in perpetuity, under Part IX. of this Act, to the Nominees of any Body or Person respectively, such Nominees shall be not more than *Five* in Number, and shall be the Trustees for the Exercise of such Patronage, and shall be named in the Deed of Assignment or Transfer by such Body or Person, or by the major Part in Value of the Subscribers to the Endowment or Augmentation in consideration of which such Assignment or Transfer is made, of not less than *Fifty Pounds* each.

Nominees to be Members of the United Church. 19 & 20 Vict. c. 104. s. 24.

224. Every such Nominee shall upon his Appointment sign a Declaration that he is a Member of the United Church.

How Vacancies in the Office of Trustee shall be supplied 19 & 20 Vict. c. 104. s. 24.

225. All Vacancies which shall from Time to Time occur in the Number of such Trustees, from Death, Resignation, or Inability or Refusal to act, shall be filled up in such Manner as by such Deed of Assignment or Transfer shall be provided; and if it happen that all the Trustees for the Time being shall die without having (in pursuance of any such Power in such Deed) appointed any other

Trustees as their Successors, or in case any Vacancy in the Number of such Trustees shall not be filled up for the Space of *Two* Years from the Date of such Vacancy occurring, then and in either Case the Bishop may nominate, appoint, or complete the Number of Trustees by the Deed of Assignment or Transfer required; and every such Appointment, whether made in pursuance of such Deed of Assignment or Transfer or by the Bishop, shall be valid for the Purpose of conveying the Right of Nomination.

Trustees for Time being may act during Vacancy. 19 & 20 Vict. c. 104. s. 24.

226. During any Vacancy in the Office of Trustee the remaining or continuing Trustees for the Time being shall be capable of acting, as effectually as if such Vacancy had been filled up.

Crown may nominate Ministers to Districts or new Parishes under the SignManual. 7 & 8 Vict. c. 94. s. 1.

227. Wherever any Right of Patronage of any separate Parochial District or new Parish shall be assigned to or vested in or may be exercised by Her Majesty under this Act, Her Majesty may nominate to the Bishop a Spiritual Person to be licensed to such District or new Parish as Minister or Perpetual Curate thereof, as the Case may be, by Warrant under Her Royal Sign Manual; and such Warrant shall authorize such Bishop to license such Spiritual Person.

Bishop may license a Spiritual Person to separate Districts or new Parishes. 7 & 8 Vict. c. 94. s. 2.

228. Wherever any Right of Patronage of any separate Parochial District or new Parish shall in like Manner be assigned to or vested in or may be exercised by any Bishop under this Act, such Bishop may license a Spiritual Person to such District or new Parish as the Minister or Perpetual Curate thereof, as the Case may be, in the same Manner, mutatis mutandis, as he may now by Law license a Spiritual Person to any Perpetual Curacy.

No Fee for the Queen's Warrant.

Fee for Licence. 7 & 8 Vict. c. 94. s. 3.

229. No Fee shall be payable for any such Warrant; and a Fee of *One Pound* only shall be receivable by the Secretary of any Bishop for or in respect of each and every Licence granted by any Bishop of a Minister or Perpetual Curate of any separate Parochial District or new Parish, or of any Building licensed by such Bishop within any such District for the Performance of Divine Service, pursuant to the Provisions of this Act; and no further or larger Fee or Gratuity shall be receivable by any Person whomsoever for the making, issuing, or granting or registering of any such Licences.

Bodies Politic, &c. may give up Rights of Patronage, and Endow-

230. Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Tail, Husbands, Guardians, Trustees, and Feoffees in Trust, Committees, Executors, and Administrators, and all other Persons and Trustees whomsoever, (not

(not only for or on behalf of themselves, their Heirs and Successors, but also for and on behalf of Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Coverts, or other Persons), and all Femes Covert who are or shall be possessed of or entitled to or interested in their own Right in, and every other Person who shall be possessed of or entitled to or interested in any Right of Patronage or of Presentation or Appointment to any Benefice, Donative, Perpetual Curacy, or of any Spiritual Person to any Church, or to the Performance of any Ecclesiastical Duties in any Church, or the Trustees of any Endowments or Emoluments for the Use of any Church, or the Incumbent thereof, or the Spiritual Person serving the same, may surrender any such Right of Patronage, Presentation, Appointment, Endowments, or Emoluments, or may enter into or make any Agreement relating thereto, with the Commissioners and the Bishop, and also may attach any contiguous Division of any Parish, District, or Place, with the Consent of the Patron and Incumbent thereof, to any such Church or Chapel, for the Purpose of better enabling the Commissioners to convert any such Church or Chapel into the Church or Parochial Chapel or Chapel of Ease of a Parish, District, or Place, and to convert any Chapelry or other Ecclesiastical Division into a Parish, District, or Place for Ecclesiastical Purposes, provided that such Surrender or Agreement be sanctioned by the Commissioners under their Common Seal and by the Bishop under his Hand and Seal, and any such Body or Person may endow or agree to the Endowment of any Chapel out of the Pew Rents thereof; and every Body and Person so making such Surrender or Agreement is hereby indemnified for so doing.

ments and Emoluments, held by them in trust, to enable the Commissioners to establish District Churches. 59 G. 3. c. 134. s. 15. 3 G. 4. c. 72. s. 15. 1 & 2 Vict. c. 107. s. 15.

Bodies Politic, &c. indemnified.

PART X.

Gifts and Purchases of Sites, Endowments, and Materials for Ecclesiastical Purposes.

Statutes of Mortmain not to apply to Conveyances of Gifts or Grants of Lands, &c. 43G.3.c.108. s. 1. 51G.3.c.115. ss. 1 & 2. 52G.3.c.161. s. 27. 10G.4.c. 50. s. 45. 3 & 4 Vict. c. 60. ss. 2, 3, 17. 14 & 15 Vict. c. 97. s. 8.

231. Any Grant, Gift, or Devise of Land or Property made pursuant to the Provisions herein-after contained to any Body or Person, or to the Commissioners or to such other Body or Person as they shall direct, shall be valid, without any Licence or Writ of Ad quod damnum, and notwithstanding the Grantor or Donor may die within *Twelve* Months from the Execution of the Deed or Will by which such Land or Property is granted or given, and any Body or Person granting, giving, or devising Land and Property under this Act is hereby indemnified in respect thereof.

 232. Nothing

Except where Endowment exceeds the annual Value of 300*l.*
3 & 4 Vict. c. 60. ss. 2, 3. 17.
14 & 15 Vict. c. 97. s. 8.

232. Nothing herein contained shall authorize an Exemption from the Provisions of the Mortmain Acts in the Case of an Endowment for the Use or Benefit of any Church, or of the Incumbent or Minister thereof (except such Endowment shall be made in consideration of any Assignment, Transfer, or Declaration of any Right of Patronage under this Act), where such Endowment, whether made at One Period or at different Periods, shall in any One Case exceed in the whole the clear annual Value of *Three hundred Pounds*.

Power to determine the clear annual Value of such Endowment.
3 & 4 Vict. c. 60. s. 4.

233. In every Case in which it is required to ascertain the clear annual Value of any Endowment under this Act, the Commissioners may cause such clear annual Value to be determined by any *Two* Persons whom they shall appoint, by Writing under their Common Seal, which Writing shall be annexed to the Instrument by which such Endowment is effected; and a Certificate of such clear annual Value, written and endorsed on such Instrument by which such Endowment is effected, and signed by such Persons, shall for the Purposes of this Act be conclusive Evidence of such clear annual Value.

The Queen may grant Sites for Churches.
10 G. 4. c. 50. s. 45.

234. The Queen may, out of the Possessions and Land Revenues of the Crown, to which an Act passed in the Tenth Year of the Reign of King George the Fourth, Chapter Fifty relates, give and grant to and vest in any Body or Person for such Estate or Interest therein as to Her Majesty shall seem meet, any Building proper to be used or converted into or any Ground proper for the Site of any Church, with or without a Cemetery or Burial Ground thereto, or any Ground proper for a Cemetery or Burial Ground to any Church, and any House with its Appurtenances, and with or without a Garden thereto, proper for the Residence of the Spiritual Pastor who may serve such Church, or any Ground proper for the Site of any such Residence, or of any Parochial or District School.

Grants to be made by Warrant, and enrolled.
10 G. 4. c. 50. s. 45.

235. Whenever it shall be the Pleasure of Her Majesty to make a Grant for any of such Purposes, the Commissioners of Her Majesty's Treasury may issue a Warrant under their Hands to any such Body or Person, which Warrant shall be exempt from any Stamp Duty, and shall be enrolled in Manner provided by the said Act, with respect to the Enrolment of Deeds relating to Lands in England, and the Enrolment of such Warrant shall be certified at the Foot or Back thereof by the proper Officer, by whom the same shall be enrolled under his Hand, and such Warrant, when so enrolled, shall be returned with such Certificate of Enrolment to the Grantee

Grantee of such Lands and Premises, and from such Enrolment thereof, the Grantee named in such Warrant, and his Heirs, Successors, Executors, or Administrators shall be deemed to be in the seisin or possession of the Premises in such Warrant specified, and shall hold and enjoy the same, either absolutely and in perpetuity, or for such limited Estate or Interest therein, or subject to such Reservations of Rent or other Conditions for such Purposes as shall be specified in such Warrant: Provided that nothing herein contained shall extend to enable Her Majesty to grant more than Five Acres in any One Grant for any such Purposes, or to grant any Premises in any One Instance which shall exceed in value the Sum of One thousand Pounds.

Commissioners of Woods and Forests, &c., and Persons under Disability generally, may convey Lands and Buildings to the Commissioners.

51 G. 3. c. 115. s. 1.
52 G. 3. c. 161. s. 27.
58 G. 3. c. 45. ss. 34. 36, 37.
59 G. 3. c. 134. s. 37.
3 G. 4. c. 72. s. 1.
5 G. 4. c. 103. s. 19.
1 & 2 Vict. c. 107. s. 8.

236. It shall be lawful for the Commissioners of Her Majesty's Woods and Forests, as to Lands under the Management of such Commissioners, and for the principal Officers of any other Public Department having or holding any Land for Her Majesty for the public Use of any such Department, with the Consent in every Case of the Commissioners of Her Majesty's Treasury, or for Her Majesty by the Chancellor of the Duchy of Lancaster as to Lands of the said Duchy, or for the Duke of Cornwall by the Chancellor and Council of such Duchy as to Lands of such Duchy, and also for any Body or Person having the Control, Care, or Management of any Hospital, School, Charitable Foundation, or other Public Institution, as to any Land belonging to such Hospital, School, Foundation, or Institution, and for all Tenants for Life or in Tail as to any Land of which they may be seised or possessed, and for all Husbands, Guardians, Trustees, and Feoffees in Trust, Committees, Executors, and Administrators, and all other Persons and Trustees, as to any Land of which they may be seised or possessed (not only on behalf of themselves, their Heirs and Successors, but also on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or other Persons), and for all Femes Covert, as to any Land of which they may be seised or possessed in their own Right, by Deed executed by or under the Seal of such Body or Hand and Seal of such Person respectively, to grant and convey, by way of Gift, Sale, or Exchange, to the Commissioners, or such Body or Person as they may direct, such Quantity of any Land of which they may be so seised or possessed, as shall in the Opinion of the Commissioners be sufficient for Sites for Churches, or for erecting, rebuilding, repairing, or purchasing Churches or for Church Yards or Cemeteries, or for Houses of Residence with Appurtenances, or for Gardens, or for Glebe Lands, or for enlarging or improving or making a convenient and proper Access thereto respectively.

Sites for Churches, Burial Grounds, or Parsonages.

 237. Every

Capacity for Bodies or Persons to grant Land or Property for Endowment. 43G.3.c.108. s. 1. 6 & 7 Vict. c. 37. s. 22. 7 & 8 Vict. c. 94. s. 7. 19 & 20 Vict. c. 104. ss. 4. 27.

237. Every Body or Person, having in his or their own Right, or in right of his or their Body Corporate, any Estate or Interest, in possession, reversion, or contingency, of or in any Land or Property, shall have Power, Licence, and Authority, by Deed, in the Case of any Land, but without any Deed in the Case of any Personal Estate, to grant and convey by way of Gift, Sale, or Exchange, or by Will to devise or bequeath to any Body or Person or to the Commissioners or to such other Body or Person as they may direct, all the Estate, Interest, or Property of such Grantor or Donor in such Land or Property or any Part thereof, for or towards providing a Church, or a Fund for the repairing of the Fabric of any Church, or a Site for a Church, Church Yard, or Burial Ground for any Parish, District, or Place, or for or toward the Endowment or Augmentation of the Income of the Incumbent or Minister, or of any Curate or Assistant Curate, of any Parish, District, or Place, or for or towards the providing a Residence, with Appurtenances, Garden or Glebe Land, for such Incumbent or Minister: Provided that no more than One such Gift, Devise, or Bequest shall be made by any One such Grantor or Donor to any Body or Person other than the Commissioners or such Body or Person as they may direct, and that nothing in this Provision contained shall enable any Person being within Age or of Non-sane Memory, or any Feme Covert without her Husband to make any such Gift, Grant, or Alienation except as herein-before otherwise provided.

Powers not to be exercised by Incumbent without Consent of Bishop and Patron. 19 & 20 Vict. c. 104. s. 4.

238. No Gift or Grant of Land under this Act belonging to any Benefice with Cure of Souls shall be made without the Consent of the Bishop and Patron.

Commissioners may accept Gifts of Land without investigating Title.

239. The Commissioners, without any Investigation of Title, may accept or direct to be accepted any Land granted by way of Gift by any Body or Person; provided that the Grantor and his Solicitor make a Declaration to the Satisfaction of the Commissioners that such Grantor at the Time of such Gift is seised in Fee Simple in Possession of such Land, free from Incumbrances, and has Power to grant the same.

Land or Property to be dealt with according to the Will of Donor. 6 & 7 Vict. c. 37. s. 22.

240. Land or Property so granted and conveyed, devised and bequeathed, shall be applied according to the Will of the Grantor or Donor, as in and by the Deed or Will by which such Land or Property is granted, given, devised, or bequeathed may be expressed, or, in the Case of no Deed or Will, as may in some other Manner be directed, and in default of such Expression or Direction then in such

such Manner as shall be determined by a Scheme and Order in Council.

Grants of Land to extend to Enfranchisement. 58 G. 3. c. 45. s. 36.

241. The Powers herein-before contained for granting and conveying Land shall extend to authorize the Enfranchisement of Land, or the Release of any Right, Estate, or Interest in such Land.

Plots of Land not exceeding One Acre held in Mortmain may be annexed to a Church, &c., and may be granted either by Exchange or Benefaction. 43 G. 3. c. 108. s. 4.

242. Every Body Politic or Corporate, sole or aggregate, may, with or without Confirmation, as the Case may require, give and grant to any Body or Person, either by way of Exchange or Benefaction, any small Plot of Land held in Mortmain, not exceeding One Acre, for the Purpose of annexing the same, with the Consent of the Incumbent, Patron, and Bishop, to any Church, House of Residence, Churchyard, or Curtilage thereto belonging, to which such Plot of Land might lie convenient, or for the Purpose of providing a Site for any Church or House of Residence for the Incumbent or Minister of any Church.

Any Person having the Fee Simple of any Manor may grant Five Acres of the Waste for a Site for a Church, &c. 51 G. 3. c. 115. s. 2.

243. Any Body or Person seised in Fee Simple of any Manor may, by Deed, and enrolled in the Court of Chancery, give or grant to the Rector, Vicar, or other Minister of any Parish Church, and his Successors, or to the Curate or Minister of any Chapel, and his Successors, any Land not exceeding in the whole the Quantity of *Five Acres*, Parcel of the Waste of such Manor, and lying within the Parish, District, or Place where such Church shall be or shall be intended to be erected, for the Purpose of erecting thereon or enlarging any such Church, or for a Churchyard or Burying Ground, or enlarging a Churchyard or Burying Ground, for such Parish, District, or Place, or for a Glebe for the Rector, Vicar, Curate, or other Minister of any such Church, to erect a House of Residence or other Buildings thereon, or make other Conveniences for the Residence of such Rector, Vicar, Curate, or other Minister, discharged from all Rights of Common thereon.

Grantors or Donors may make Conditions on Sale or Gift of Land. 58 G. 3. c. 45. s. 51.

244. In the Case of any Sale or Gift of Land or Property to the Commissioners for any of the Purposes of this Act, the Body or Person selling or giving may make such Conditions as to the Disposition thereof as may be agreed upon between the Commissioners and such Body or Person.

Land given for a Residence not to exceed Ten Acres. 58 G. 3. c. 45. s. 33.

245. The Quantity of Land that may be granted by way of Gift under this Act to the Commissioners, or to such Body or Person as

Land acquired by Purchase or Exchange not to exceed Five Acres. 1 & 2 Vict. c. 107. s. 9.

as they may direct, for the Residence, Garden, and Appurtenances of the Spiritual Person serving any Church shall not exceed Ten Acres; the Quantity of Land that the Commissioners may acquire by Purchase or Exchange under this Act, for a Site for any House of Residence for any Incumbent, shall not exceed *Five* Acres.

Persons, by Deed or Will, without the Intervention of the Commissioners, may give or grant Lands not exceeding Five Acres on personal Property not exceeding 500*l.* for certain Purposes. 43 G. 3. c. 108. s. 1.

246. No Grant by way of Gift and no Devise or Bequest to any Body or Person other than the Commissioners, or such Body or Person as they may direct, shall exceed Five Acres in Land or the Value of Five hundred Pounds in Goods and Chattels, and it shall be lawful for the Lord Chancellor, on Petition, to make Order for reducing any such Gift, Devise, or Bequest that may exceed such Limits to and within such Limits, and for allotting such specific Five Acres, and, if Occasion should require, such specific Goods and Chattels as in his Judgment shall be most convenient, or to make such other Order touching the Premises as to him shall appear just.

No Glebe of Fifty Acres shall be augmented with more than One Acre. 43G.3.c.108. s. 3.

247. No Glebe containing upwards of Fifty Acres shall be augmented with more than One Acre by any Grant by way of Gift, or by any Devise made under this Act, to any Body or Person other than the Commissioners, or such Body or Person as they may direct; but the Excess, if any, so given or devised for such Augmentation shall be reduced as aforesaid by the Lord Chancellor, and such Order thereupon shall be by him made as herein-before is directed in the Case of an Excess beyond Five Acres.

Deeds to be enrolled. 3 & 4 Vict. c. 60. s. 5. 6 & 7 Vict. c. 37. s. 22.

248. Every Instrument of Conveyance by which any Land is granted and conveyed under this Act shall be registered in the Registry of the Diocese within which such Land is locally situated, and shall be enrolled in such Manner and within such Time as is directed by the Statute made in the Twenty-seventh Year of the Reign of King Henry the Eighth, intituled "An Act concerning "Enrolments of Bargains and Contracts of Lands and Tenements."

Form of Conveyance to the Commissioners. 58 G. 3. c. 45. s. 37. 3 G. 4. c. 72. s. 2. 1 & 2 Vict. c. 107. s. 6.

249. Such Instruments of Conveyance may be made according to the Form following, or in such other Form as the Case may require, and as the Commissioners may specifically direct; (that is to say,)

'I *or* We [*or the Title of a Corporation*], under the Provisions of
' "The Church Building and New Parishes Act, 1863," do hereby
' voluntarily [*or, if for a valuable Consideration, omit* "voluntarily,"
' *and insert* "in consideration of the Sum of
' (*stating the Amount*) to me *or* us *or* the (*Title of a Corporation,*)
paid,]

'paid,] convey [*by the Direction of the Ecclesiastical Commissioners,* 'if the Case shall require,] all [*describing the Premises to be con-* 'veyed], and all [my *or* our] Interest in the same, *or* all the Interest 'in the same of the [*Title of a Corporation*] to them the Eccle- 5 'siastical Commissioners for England, and their Successors to [*the* 'Grantee, his Heirs or Successors, and Assigns], for the Purposes of 'the said Act, as a Site for [*as the Case may be*], and to be devoted, 'when consecrated [*if the Conveyance of a Parsonage House, or if* 'a Site for a Garden or Glebe, the Words "when consecrated" *to be* 10 'omitted], to Ecclesiastical Purposes for ever.

'In witness whereof, *&c.*'

Assent of Commissioners to be testified by their Seal. 8 & 9 Vict. c. 70. s. 24.

250. Every such Instrument of Conveyance shall be valid, and be a complete Bar to all Estates Tail and other Estates, Rights, Trusts, Interests, and Incumbrances, but no such Instrument shall be 15 valid nor be registered in the Registry of any Diocese, unless and until the Assent thereto of the Commissioners be testified under their Common Seal, and after such Seal is affixed such Conveyance shall take effect as from the making thereof.

Property conveyed for the Site of any Church not to be questioned after Five Years. 3 G. 4. c. 72. s. 29. 1 & 2 W. 4. c. 38. s. 17.

251. Upon the Expiration of *Five* Years after the taking effect of 20 any Devise to the Commissioners, or the Conveyance to them, or by their Direction, to any Body or Person, of any Land for any of the Purposes of this Act, such Land, although no Church shall have been erected thereon, shall remain absolutely vested in the Commissioners or in the Body or Person to whom the same was so conveyed, their or 25 his Successors or Heirs and Assigns, for the Purposes for which the same was so devised, conveyed, free from all Estate, Title, or Claim of every other Body or Person.

So much of 17 Car. 2. c. 3. as enables Impropriators to augment (repealed by 1 & 2 Vict. c. 106. s. 15.) revived. 6 & 7 Vict. c. 37. s. 25.

252. So much of an Act that was passed in the Seventeenth Year of the Reign of King Charles the Second, intituled "An Act for 30 "uniting Churches in Cities and Towns Corporate," as enabled any Owner or Proprietor of any Impropriation, Tithes or Portion of Tithes, to annex the same or any Part thereof unto the Parsonage, Vicarage, or Curacy of the Parish Church or Chapel where the same lie or arise, or to settle the same in trust for the Benefit of 35 such Parsonage, Vicarage, or Curacy, and authorized Parsons, Vicars, or Incumbents to receive Lands, Tithes, or other Hereditaments without Licence of Mortmain, shall continue in force, notwithstanding any Repeal of such Act contained in the Act passed in the First and Second Years of the Queen, Chapter One hundred and six, and 40 all Augmentations and Grants at any Time heretofore made under

the said Act of King Charles the Second, or under the Act of the Sixth and Seventh Years of the Queen, Chapter Thirty-seven, shall be valid.

Property conveyed for the Site of any Church not to be questioned after Five Years. 1 & 2 W. 4. c. 38. s. 17.

253. From and after the Expiration of *Five* Years after the Transfer or Conveyance of any Land to any Body or Person as a Site for any Church, the Patronage of which is vested in the Body or Person building or endowing the same or in their Nominees, or for a Churchyard or Burial Ground for such Church, such Land shall be absolutely vested in the Body or Person to whom the same may be conveyed, their Heirs or Assigns.

Tender of Amends where Land improperly conveyed. 1 & 2 W. 4. c. 38. s. 7.

254. If any Body or Person to whom any Land shall have been conveyed for the Purposes of this Act shall, within *Two* Months after any Judgment in Ejectment shall have been obtained against him for such Land, tender or pay to the Plaintiff in such Ejectment his Costs on such Ejectment, and such Sum of Money as a Jury in the Manner herein mentioned find to have been the Value of such Land at the Time when the same was conveyed for the Purposes of the former Church Building Acts or this Act, such Land shall be absolutely vested in such Body or Person.

The Jury who shall try any Ejectment, or a Jury under a Writ of Inquiry, shall ascertain the Value of the Premises. 1 & 2 W. 4. c. 38. s. 18.

255. The Jury who shall try any Ejectment brought for the Recovery of any Lands conveyed for the Purposes of the former Church Building Acts or this Act, or, if Judgment in Ejectment have been obtained by Default, a Jury under a Writ of Inquiry (which Writ of Inquiry the Court in which such Action is brought is hereby empowered to issue), shall ascertain the Value of such Land at the Time when it was so conveyed, and the Value so found shall be indorsed by the Judge who tried the Ejectment on the Postea, or shall be returned to the Court by the Sheriff or Under Sheriff or other Person before whom any Writ of Inquiry is executed in the same Manner as other Inquests are returned on Writs of Inquiry.

The Duke of Cornwall, Commissioners of Woods and Forests, &c., may give Materials for building Churches, &c. 59 G. 3. c. 134. s. 20.

256. The Commissioners of Her Majesty's Woods, Forests, and Land Revenues, with the Consent of the Commissioners of Her Majesty's Treasury, in Writing, or for Her Majesty by any Grant signed by the Chancellor of the Duchy of Lancaster for the Time being, or for the Duke of Cornwall, if of full Age, or the Council of His Royal Highness during his Minority, or for any Body Corporate or Collegiate, or Corporation Aggregate or Sole, to give and grant any Stone, Slate, or Timber, or other Materials from any Quarries, Forests, or Wastes belonging to Her Majesty or the Duke of Cornwall, or any such Body respectively, for or towards the building,

ing, rebuilding, enlarging, or increasing the Accommodation of any Church under the Provisions of this Act, or building any House or Appurtenances for the Residence of a Spiritual Person, or fencing any Garden to be annexed to such Residence, or enclosing any Church Yard.

Treasury may remit Duties of Customs or Excise on Materials used for the building of Churches, &c. 59 G. 3. c. 134. s. 21. 3 G. 4. c. 72. s. 27.

257. It shall be lawful for the Commissioners of Customs and Inland Revenue respectively, with the written Consent of the Commissioners of Her Majesty's Treasury, to remit all or any Proportion of the Duties of Customs or Excise, or to order the same to be drawn back or repaid, in respect of Timber or other Materials which have been or shall be bonâ fide procured for and used in the building, rebuilding, enlarging, or increasing the Accommodation of any Church now or hereafter to be erected, rebuilt, enlarged, or increased in its Accommodation, with the Approbation of the Commissioners, and which Approbation may be at any Time certified under their Common Seal to the Commissioners of Her Majesty's Treasury; and such Duties shall in every such Case be remitted, drawn back, or repaid under such Regulations and in such Manner as shall be directed by the Commissioners of Her Majesty's Treasury.

Deeds and other Instruments not to be subject to Stamp Duty. 59G. 3. c. 134. s. 35. 3 G. 4. c. 72. s. 28.

258. No Deed of Gift, or Grant, Conveyance, Security, Contract, Agreement, Deed, or other Instrument, made for any of the Purposes or under any of the Provisions of the former Church Building Acts, the former New Parishes Acts, or of this Act, shall be subject to any of the Duties upon stamped Vellum, Parchment, or Paper.

Land conveyed to the Commissioners for Burial Grounds to be consecrated. 59 G. 3. c. 134. s. 38. 8 & 9 Vict. c. 70. s. 14.

259. Any Land of which the Commissioners may have accepted or directed a Conveyance under the former Church Building Acts or this Act, for any Burial Ground, or for the Enlargement of any Burial Ground, shall be, as soon as convenient, consecrated for the Burial of the Dead according to the Use of the United Church.

Land obtained for Burial Grounds to be Part of Parish when not within its Bounds. 3 G. 4. c. 72. s. 26.

260. When any such Land shall be situated out of the Boundaries of the Parish, District, or Place for which the same is intended, the same shall, after Consecration, be part of such Parish, District, or Place.

Land conveyed for Churches and Church Yards shall be devoted to Ecclesi-

261. Land granted and conveyed or devised for the Site of, or for enlarging, improving, or making a convenient Access to, a Church or Burial Ground or additional Burial Ground for any Parish, District, or Place, shall, when conveyed or devised to the Commissioners, or to such Persons as they may direct, and consecrated by

astical Purposes. 58 G. 3. c. 45. s. 33.

the Bishop, become for ever thereafter devoted to Ecclesiastical Purposes.

Land when consecrated to be freed from all Claims. 19 & 20 Vict. c. 104. s. 10.

262. The Land so granted and conveyed or devised shall, from and after the Consecration thereof, be discharged from all the Estate and Interest of any Body or Person in the same or any Part thereof respectively, subject nevertheless to any Rent that may be reserved thereout, and to the Covenants and Conditions subject to which the same may have been granted and conveyed or devised.

How the Freehold of Sites for Churches, &c. shall vest. 8 & 9 Vict. c. 70. s. 13.

263. The Freehold of the Site of every Church of which the Commissioners may accept or direct a Conveyance shall, when such Church is consecrated, vest in the Incumbent thereof for the Time being; and the Freehold of every Burial Ground of which the Commissioners may accept or direct a Conveyance shall, after the same has been consecrated, vest in the Incumbent for the Time being of the Church to which such Burial Ground shall belong, or if there be no such Incumbent then in such Body or Person as the Commissioners may, with Consent of the Bishop, direct, until there is an Incumbent, and from and after that Time then in such Incumbent, for the Use of the Inhabitants of the Place for which such Burial Ground was acquired.

Freehold of Residence House and Glebe to vest in Incumbent. 58 G. 3. c. 45. s. 33. 8 & 9 Vict. c. 70. s. 13.

264. The Freehold of any Residence, House, Garden, and Glebe Land, of which the Commissioners may accept or direct a Conveyance, or which may be devised to them, shall, immediately after such Conveyance or Devise, and after the Consecration of the Church to which the same shall be annexed, be the House and Glebe belonging to such Church, and vest in the Incumbent thereof for the Time being.

Apportionment or Release of Quit-Rents, &c. 3 G. 4. c. 72. s. 9. 14 & 15 Vict. c. 97. s. 27.

265. When any Quit, Chief, or other Rent or other annual or recurring Charge is payable out of any Hereditaments, a Part whereof has been acquired under the former Church Building Acts or shall be acquired under this Act, it shall be lawful for the Body or Person giving or selling such Part of such Hereditaments to apportion such Rent or Charge in such Manner as the Commissioners deem expedient, and to charge one Part thereof on the Hereditaments conveyed under the former Church Building Acts or under this Act, and the other Part thereof on the Remainder of the Hereditaments charged therewith; and the several Portions of such Rent or Charge so apportioned which may be charged on the Hereditaments so conveyed under the former Church Building Acts or this Act and the Remainder of the Hereditaments originally charged respectively shall in all respects, as far as Circumstances will admit, be

be recoverable from or out of the Hereditaments so conveyed and the Remainder of the Hereditaments originally charged respectively, in the same Manner as the original Rent or Charge was recoverable from or out of such Hereditaments or any Part thereof.

Entire Rent may be charged upon a Part of the Hereditaments. 14 & 15 Vict. c. 97. s. 27.

266. If the Part of the Hereditaments so charged which is not so acquired be in the Opinion of the Commissioners and of the Body or Person having Power to sell or give the other Part of such Hereditaments, of ample Value to bear the whole of such Rent or Charge, then such Part of the Hereditaments as may be conveyed to the Commissioners may be conveyed free from such Rent or Charge, and the Remainder of the Hereditaments shall continue liable to the whole thereof, in the same Manner as the whole of the Hereditaments were originally liable, and the Commissioners are hereby authorized to do all Acts necessary for giving full Effect to such Apportionment, Discharge, and Charge.

Fines for Renewals at the Time of Lands, &c. taken shall be paid to the Person entitled to renew. 3 G. 4. c. 72. s. 4.

267. If any Land or any Interest arising out of the same be given, sold, or surrendered, under this Act, by any Body or Person, and in which any such Body or Person shall be entitled to take any Fine upon the Renewal of any Lease of such Land, the Amount of the Value of the Interest of such Body or Person which would arise out of the Renewal of the Lease if the same were renewed at the Time of such Land being so given, sold, or surrendered, shall be paid to the Body or Person entitled thereto out of the Principal Sum ascertained under this Act as the Value of such Land, and the Remainder of such Principal Sum shall be applied under this Act.

Rents and Fines may be apportioned. 17 & 18 Vict. c. 32. ss. 1. 8.

268. If any Hereditaments to be acquired for any of the Purposes of this Act are included in a Lease or Underlease with other Hereditaments, the Rent reserved by such Lease or Underlease, and any Fine certain to be paid on any Renewals thereof, may be apportioned between the Hereditaments so to be acquired and the Remainder of the Hereditaments, or may be wholly charged on such Remainder, in exoneration of the Hereditaments so to be acquired.

Parties to such Apportionment. 17 & 18 Vict. c. 32. s. 2.

269. Such Apportionment or Exoneration may be effected by the Parties respectively having Power to assign or convey the Leasehold Interest, and to assign or convey the Reversion expectant on such Leasehold Interest, in the Hereditaments so to be acquired.

How Sums of Money secured by way of Insurance,

270. Sums of Money to be secured by way of Insurance, and all other Sums of Money or other Payments or Services, may be apportioned or exclusively charged in the same Manner and with the same

&c. may be apportioned. 17 & 18 Vict. c. 32. s. 5.

Effects in all respects as are herein provided with reference to the Apportionment or exclusive Charge of Rent.

Apportioned Rent to be recoverable by the same Remedies as the entire Rent. 17 & 18 Vict. c. 32. s. 4.

271. On the acquiring of any Hereditaments included with other Hereditaments in a Lease or Underlease, the Rent, Sums of Money, or other Payment or Service, or apportioned Part thereof, by any such Apportionment or Exoneration expressed to be made payable out of the Hereditaments which shall not be so acquired, and out of the Hereditaments which shall be so acquired respectively, shall be recoverable as regards such Hereditaments respectively by the same Remedies by which, before such Hereditaments were acquired, the Rent, Sum of Money, or other Payment or Service reserved or made payable by the Lease or Underlease was recoverable out of the whole of the Hereditaments therein comprised.

Covenants, &c. to be apportioned. 17 & 18 Vict. c. 32. s. 4.

272. The Covenants, Conditions, and Agreements in such Lease or Underlease, as well those relating to Rent as others, so far as regards the Part acquired and the Residue not so acquired respectively of the Hereditaments comprised in such Lease or Underlease, shall continue and subsist upon and against and with regard to such Part so acquired and such Residue respectively in like Manner as if such Part or Residue only had been originally comprised in such Lease or Underlease.

Fines for Renewal to be apportioned. 17 & 18 Vict. c. 32. s. 4.

273. In case such Lease or Underlease contain Provisions for Renewal upon Payment of a Fine certain, such Provisions for Renewal shall apply to the Part acquired and the Residue not so acquired respectively of the Hereditaments comprised in such Lease or Underlease, in the same Manner as if such Part or Residue only had been originally comprised in such Lease or Underlease, and the Fine certain to be paid on any Renewal had been the Fine certain which in the Exoneration or Apportionment shall be expressed to be payable in respect of the same Hereditaments.

Contracts for Leases and Underleases, and where no Rent or a nominal Rent only is reserved. 17 & 18 Vict. c. 32. ss. 6, 7, 8.

274. The Provisions of this Act herein-before contained relating to Leases and Underleases shall extend to Contracts for Leases and Underleases, as well as to Leases and Underleases, and to all Cases where a Part of the Hereditaments included in any such Lease or Underlease is to be acquired for the Purposes of this Act, although no Apportionment or Exoneration from Rent may take place by reason that no Rent or a Rent only nominal is reserved by such Lease or Underlease.

Purchase Money of Lands sold

275. Whenever Land belonging to an Incumbent in right of his Church is conveyed by him by way of Sale under this Act, the Purchase

Purchase Money shall be paid to the Governors, and be applied by them for the Benefit and Augmentation of such Benefice, in the same Manner, and with the same Powers of Investment in the Purchase of Land, and Exchange for other Land, as if the Money so appropriated had been originally provided or appropriated by the Governors, out of the Funds at their Disposal, for the Benefit and Augmentation of the same Benefice; and the Receipt in Writing of the Treasurer for the Time being of the Governors for such Money shall effectually discharge the Persons paying such Money from all Liability in respect thereof.

under 58G.3. c. 45., and belonging to an Incumbent in right of his Living, may be applied by the Governors of Queen Anne's Bounty for the Augmentation of Benefice. 8 & 9 Vict. c. 70. ss. 20, 21.

276. When, upon the Conveyance of any Waste Grounds of any Manor, any Compensation shall be payable in respect of any Rights of Common therein, such Compensation shall be paid to and shall be received by the Churchwardens of the respective Parishes wherever such Waste Grounds are situate, and be applied for such general Purposes within such Parish as a Vestry to be convened for that Purpose shall direct, and if there be no Vestry then as the Commissioners shall direct.

Compensation for Waste Ground to whom to be paid. 19 & 20 Vict. c. 104. c. 28

277. If any Money to be paid for any Land granted or conveyed by any Body or Person who may be under any Disability or Incapacity shall exceed the Sum of *Twenty Pounds*, the same shall be paid into the Bank of England, in the Name and with the Privity of the Accountant General of the Court of Chancery, and be placed to the Account of the Body or Person for the Time being entitled to the Rents and Profits of such Land, or of their Guardians, Trustees, or Committees, in case of Infancy or Lunacy, or the same Money shall, at the Option of the Body or Person to whose Account such Money would be so placed (and with the Consent of the Commissioners, in case the same shall exceed *Two hundred Pounds*), be paid to *Three* Trustees, to be nominated by the Body or Person making such Option, and approved of by the Commissioners, such Nomination and Approbation to be signified in Writing.

If Body or Person giving or selling Land be under Disability, Purchase Money, if exceeding 20*l.*, may be paid into the Bank of England or to Trustees. 58 G. 3. c. 45. s. 45. 8 & 9 Vict. c. 70. s. 19.

278. Such Money, if so paid into the Bank of England, shall, by Order of the Court of Chancery, made upon a Petition by the Body or Person who would have been entitled to the Rents and Profits, or if paid to Trustees as aforesaid then shall, at the Discretion of such Trustees, be applied either in the Purchase of the Land Tax, or towards the Discharge of any Debt or other Incumbrance, as such Court or Trustees may direct, affecting the same Lands or other Land settled therewith to the same or like Uses and Trusts, or may be invested in the Purchase of other Land, to be conveyed to and upon such Uses, Trusts, and

Application and Investment of such Money. 58 G. 3. c. 45. s. 44.

Purposes as the Land so sold, or such of them as shall be then subsisting and capable of taking effect; and such Money shall in the meantime be invested in the Purchase of Three Pounds per Centum Bank Annuities, and the Dividends thereof shall be paid to the Body or Person who would be entitled to the Rents and Profits of the Land hereby directed to be purchased if such Purchase were made.

Commissioners may make special Directions as to Investment of such Money. 58 G. 3. c. 45. s. 45.

279. When any such Money is paid to Trustees the Commissioners may make such special Provisions for the Investment thereof, and for the Appointment of new Trustees thereof, or otherwise, as they think fit.

Application of such Purchase Money if not exceeding 20*l*. 58 G. 3. c. 45. s. 46.

280. If such Money to be paid for such Land so granted and conveyed shall not exceed *Twenty Pounds*, the same shall be applied to the Use of the Body or Person for the Time being entitled to the Rents and Profits of the Land so taken, or in case of the Infancy or Lunacy of any such Person, then to his Guardian, Trustee, or Committee, for the Benefit of such Person, or shall be applied for the Purposes of this Act, as the Commissioners shall think fit.

Commissioners may exchange, on receiving Lands. 3 G. 4. c. 72. s. 34. 3 & 4 Vict. c. 60. s. 19.

281. The Commissioners may exchange any Land or any Part of any Land granted and conveyed by way of Gift or Devise, under the former Church Building Acts, New Parishes Acts, or this Act, which has not been consecrated, and is not required for the Purposes of this Act, for any other Land which may in their Judgment be more eligible for the Purpose for which the same was granted or devised, or may, with the Consent of the Grantor or Devisor of such Land, his Heirs or Successors, (which Consent he and they, notwithstanding any Incapacity or Disability, is and are hereby empowered to give,) apply such Land or such Part thereof to any other Ecclesiastical Purposes, either as Glebe Land or otherwise, for the Use of the Incumbent of the Parish, District, or Place, or for the Purpose of any Parochial or Charitable School, or any other charitable or public Purpose relating to any such Parish, District, or Place, or may re-convey such Land or any Part thereof to the Grantor or Devisor thereof, his Heirs or Successors, without requiring any Consideration for such Re-conveyance.

Incumbent, &c. may hold Land for Repairs of Church or Chancel, Parochial Schools, Dispensaries, Soup Kitchens, &c.

282. The Incumbent and Churchwardens of any Parish, District, or Place may accept and hold to themselves and their Successors any Land or Property which any Body or Person can by Law give or grant for the Repairs of the Church or Chancel thereof, or for the Purpose of any Parochial or Charitable School, Library, Dispensary, Soup Kitchen, or other Parochial and Charitable Purpose relating to such

such Parish, District, or Place, and any Land or Property so given or granted shall for ever thereafter be vested in the Incumbent and the Churchwardens for the Time being of such Parish, District, or Place, and be by them applied according to the Terms and Conditions of the Gift or Grant.

Trustees may convey Land for the foregoing Purposes.

283. Any Trustees of any Land or Property which may have been given or granted by Will or Deed for any of such Purposes exclusively relating to any Parish, District, or Place, may, by an Instrument in Writing, transfer such Land or Property to the Incumbent and Churchwardens of such Parish, District, or Place, and their Successors, and such Instrument of Transfer shall effectually vest all the Estate and Interest of such Trustees in such Land or Property in the Incumbent and Churchwardens for the Time being of such Parish, District, or Place, subject to the Trusts and Conditions contained in such Will, Deed, or Instrument of Transfer.

Commissioners empowered to resell Lands not wanted for this Act. 58 G. 3. c. 45. s. 51.

284. The Commissioners may, by Indenture under their Common Seal, grant and convey by way of absolute Sale, for a Consideration in Money, any Land or any Part of any Land granted or conveyed by way of Sale under the former Church Building Acts, the former New Parishes Acts, or this Act, which has not been consecrated, and is not required for the Purposes of this Act.

First Offer of Resale to be made to the Persons of whom the Lands were bought. 58 G. 3. c. 45. s. 51.

285. The Commissioners shall, before making any such Sale, first offer to resell such Land or such Part thereof to the Body or Person from whom they purchased the same, or who would have been then entitled to the Land in case the same had not been purchased by the Commissioners, the Price at which the same shall be resold being adjusted and settled in the Manner provided by this Act.

Where such Persons refuse to purchase, or cannot be found, &c. 58 G. 3. c. 45. s. 51.

286. If such Body or Person refuse, or do not, within *Six Weeks* after such Offer, signify their or his Desire to the Commissioners to purchase such Land or such Part thereof, or if they or he cannot after Inquiry be ascertained or found, a Declaration in Writing made by some indifferent Person before a Master Extraordinary of the High Court of Chancery, or before a Sheriff or a Justice of the Peace for the County where such Land is situate, stating that such Offer was made by or on behalf of the Commissioners, and that such Body or Person refused to purchase such Land, or did not accept such Offer within *Six Weeks* from the Time when the same was made, or that the Body or Person entitled to the Right of Pre-emption could not after Inquiry be ascertained or found, shall in all Courts be sufficient Evidence of the Facts therein stated.

Exchanges, Reconveyances, &c. to be by Deed. 58 G. 3. c. 45 s. 51..

287. All such Exchanges or Conveyances, or Conveyances from the Commissioners, shall be valid; and the Receipt by the Secretary of the Commissioners shall be a sufficient Discharge for any Purchase Money for which any such Land not so required is sold.

"The Lands Clauses Consolidation Act, 1845," partly incorporated, and extended to Exchange.

288. For the Purpose of facilitating Purchases by the Commissioners, "The Lands Clauses Consolidation Act, 1845," except the Provisions of that Act "with respect to the Purchase and taking of Lands otherwise than by Agreement," shall be incorporated with this Act; and in the Construction of this Act and of the said incorporated Act this Act shall be deemed to be the Special Act; and the Expression "the Promoters of the Undertaking," where used in the said Lands Clauses Consolidation Act, shall mean "The Ecclesiastical Commissioners for England."

PART XI.

Apportionment and Surrender of Endowments.

Commissioners may apportion Endowment.

289. The Commissioners may, with the Consent of the Bishop, the Patron, and Incumbent of the Church of any Parish, apportion any Sum arising from a permanent Endowment belonging to such Church, and applicable to the Repair and Maintenance thereof, to the Repair or Maintenance of any Church situated within the original Limits of such Parish.

Resettlement of Endowments in divided Parishes. 19 & 20 Vict. c. 104. s. 26.

290. In Cases where any Parish shall have been divided into Two or more distinct and separate Parishes, or where any District or new Parish shall have been constituted or formed out of any Parish, District, or Place, it shall be lawful, by a Representation of the Commissioners and an Order in Council ratifying the same, and with the Consent of each of the respective Patrons and Incumbents of such distinct and separate Parishes, or of such Parish, District, or Place, as the Case may be, to make a Separation and Division of the Glebe Lands, Tithes, Rentcharges, and other Endowments belonging to such distinct and separate Parishes, or to such Parish, District, or Place, and to annex and resettle the same to and for the Benefit of such distinct and separate Parishes, or of such Parish, District, or Place, and the District or new Parish constituted or taken thereout in such Manner and Proportions as may be determined by such Order in Council.

When divided Parish becomes a Rectory.

291. If upon or after any such Resettlement of Endowments, the whole of the Ecclesiastical Dues arising within the Limits of any Parish,

Parish, District, or Place, consisting of any Prædial or Rectorial Tithe, shall become and be made payable to the Incumbent of such Parish, District, or Place, such Parish, District, or Place shall thereupon become and be a Rectory, and such Incumbent the Rector thereof. 19 & 20 Vict. c. 104. s. 26.

Commissioners may apportion Glebe, Tithes, &c., or make permanent Charge thereon, for Persons serving any Chapel in the Parish. 3 G. 4. c. 72. s. 22.

292. Where the Commissioners may not deem it expedient to divide any Parish for Ecclesiastical Purposes, or create separate Districts for Ecclesiastical Purposes therein, they may, with the Consent of the Bishop and the Patron of the Church of such Parish being entitled in Fee Simple, either make a permanent Rentcharge on or apportion any Portion not exceeding *a Moiety* of the Glebe Lands, Tithes, Moduses, or other Emoluments belonging to such Church, for the Benefit of the Incumbent of or Spiritual Person serving any Chapel in such Parish, as in their Discretion they may think expedient; provided that the Presentation to every Chapel so endowed shall be vested in the Patron of the Church to which such Chapel may belong.

Apportionment of Bequests, &c., and also of Charges, to be made by the Court of Chancery. 3 G. 4. c. 72. s. 11. 8 & 9 Vict. c. 70. s. 22.

293. Where any Parish, Chapelry, or District has been formed, under the Provisions of the former Church Building Acts, the former New Parishes Acts, or this Act, out of any Parish, District, or Place, the Court of Chancery may, on a Petition by any Two Persons resident in any such Parish, Chapelry, or District, apportion between the remaining Part of such Parish, District, or Place, and Parish, Chapelry, or District, any charitable Devises, Bequests, or Gifts which shall have been made or given to or for the Use of any such Parish, District, or Place, or the Produce thereof, and in any such Case may direct that the Distribution of the Proportions of such Devises, Bequests, or Gifts, or the Produce thereof, so apportioned, shall be made by the Incumbent or Spiritual Person serving the Church, or by the Churchwardens of any such Parish, Chapelry, or District, either jointly or severally, as such Court may think expedient; and such Court may apportion between the remaining Part of such Parish, District, or Place, and such Parish, Chapelry, or District, any Debts or Charges which may have been before the Period of such Apportionment contracted or charged upon the Credit of any Church Rates in such Parish, District, or Place, and in all Cases the Costs shall be at the Discretion of such Court.

How the apportioned Debts and Charges are to be raised and paid. 8 & 9 Vict. c. 70. s. 22.

294. Debts or Charges so apportioned shall be raised and paid by the Parish, District, or Place to which they may be apportioned, in the like Manner as the Entirety was to be raised and paid, or in such Manner and under such Conditions as such Court shall direct, and if any Securities have been given for the same, such Court may order new Securities to be given for the apportioned Debts.

Apportionments to be registered in the Registry of the Diocese. 8 & 9 Vict. c. 70. s. 22.

295. Such Apportionments and resettling of Endowments and of Charitable Gifts, Debts, and Charges, shall be registered in the Registry of the Diocese in which any Parish, District, or Place to which they relate is locally situate, and Copies thereof shall be deposited with the Churchwardens of each such Parish, District, or Place.

PART XII.

Pews, Pew Rents, and Free Seats.

Accommodation to be provided for Persons resorting to Church, &c. 43 G. 3. c. 108.

296. In every Parochial Church or Chapel hereafter to be erected, ample Provision shall be made for the decent and suitable Accommodation of all Persons, of what Rank or Degree soever, who may be entitled to resort to the same, and whose Circumstances may render them unable to pay for such Accommodation.

Churches built wholly or in part by the Commissioners to be in part arranged in Pews and Residue in Free Seats. 58 G. 3. c. 45. ss. 62, 63. 78. 59 G. 3. c. 134. ss. 26. 31. 6 & 7 Vict. c. 37. s. 24. 8 & 9 Vict. c. 70. s. 11.

297. Every Church which the Commissioners shall have built or aided in building, or which shall have been built or acquired or appropriated under the former Church Building Acts, former New Parishes Acts, or this Act, shall, in such Manner as the Commissioners, with the written Consent of the Bishop, may from Time to Time direct, be arranged in Pews and Seats, to be disposed of and let under this Act; and the Part not so arranged shall remain and be assigned for Free Seats to be used by the Parishioners or Inhabitants of the Parish, District, or Place in which any such Church shall be situate.

Commissioners, with certain Consents, may from Time to Time fix the Pew Rents of any Church. 58 G. 3. c. 45. s. 59. 59 G. 3. c. 134. s. 40. 19 & 20 Vict. c. 104. s. 6.

298. The Commissioners, with the written Consent of the Bishop, and of the Patron and the Incumbent of any Church rebuilt or enlarged, or in which the Accommodation may be otherwise extended, under the former Church Building Acts or this Act, may fix a Scale of Rents for such of the Pews and Sittings in such Church as they may think fit, and may, subject to the Restriction herein-after provided, from Time to Time, with the like Consents, vary the same.

Saving of Rights by Faculty or Prescription.

299. Nothing herein contained shall affect the Rights of Persons holding Pews by Faculty or Prescription.

Pews to be provided for Minister, &c. 58 G. 3. c. 45. s. 75.

300. Where the Commissioners fix a Scale of Pew Rents in any Church, they shall allot a Pew or Seats sufficient to hold Six Persons at least, and the same shall be set apart in the Body or Ground Floor of such Church, and near to the Pulpit, for the Use of the Minister thereof, and other Seats in some convenient Part of such Church, capable of containing not less than Four Persons, for the Use of the Minister's Servants, and for such Pew and Seats no Rent shall be charged.

301. A

Seat for Churchwardens. 59 G. 3. c. 134. s. 30.

301. A proper Pew shall be likewise assigned and provided in every such Church for the exclusive and official Use of the Churchwardens.

Commissioners may, with Consent of Owners, transfer Pew Rights from existing Churches to new Churches, for the Purpose of making Free Seats. 3 G. 4. c. 72. s. 23.

302. The Right of any Body or Person belonging to or residing in any Parish, District, or Place in which the Commissioners shall have built or aided in building any new Church, or in which any Church has been built, acquired, or appropriated, under the former Church Building Acts or this Act, to any Pew in any existing Church, may, with their or his Consent, be transferred by the Commissioners to the Church of such Parish, District, or Place, for the Purpose of making or increasing the Number of Free Seats in the Church from which such Rights are transferred.

Rights to be preserved on the Transfer of Pews. 3 G. 4. c. 72. s. 23.

303. The Body or Person from whom any Pew has been taken for such Purpose, and to whom any Pew in lieu of their or his former Pew has been assigned in any other Church, shall have the same Right and Title to the Pew so assigned as they or he possessed in their former Pew, without any Faculty, Instrument, or other Process than such Assignment.

Assignment of Pews to be registered in the Registry of the Diocese. 3 G. 4. c. 72. s. 23.

304. Every such Assignment shall be registered in the Registry of the Diocese in which the Church from which such Right to any Pew is so transferred is situate, and a Duplicate thereof shall be deposited in the Chest of the Church, the Pew in which is so assigned.

Pews to be let to the Inhabitants of the Parish, District, or Place. 59 G. 3. c. 134. s. 32. 3 G. 4. c. 72. s. 24.

305. The Churchwardens of any Church for which a Scale of Pew Rents shall have been fixed under this Act shall not let any Pews and Seats except to Inhabitants of the Parish, District, or Place in which such Church is situate, during the Time they continue such Inhabitants, except as herein-after provided.

Notice to be given by Churchwardens of vacant Seats. 3 G. 4. c. 72. s. 24.

306. Notice shall be given by such Churchwardens for Six successive Weeks at the End of each Year of all the Pews which are vacant or will become vacant at the Commencement of the next Year, and of the Rent at which the same will be let, by affixing such Notice in Writing on the Doors of the Church and the Vestry Room thereof respectively.

Where Pews may be let to Persons who are not Inhabitants. 3 G. 4. c. 72. s. 24.

307. All such Pews and Seats, as are not taken within Fourteen Days after the Commencement of the ensuing Year at the Rents respectively fixed thereon, shall be let to any Inhabitant of any adjoining Parish, District, or Place at the Rent respectively so affixed upon such Pews, for any Term not exceeding the current Year;

Year; and at the Expiration of the Year, and also of every succeeding Year in which any such Pews are rented by Inhabitants of any adjoining Parish, District, or Place, such Pews shall be inserted in the List of vacant Pews, and if not taken by any Inhabitant of such Parish, District, or Place, may again be let for any Term, not exceeding the current Year, and so on from Year to Year, to any Inhabitants of any adjoining Parish, District, or Place; but any letting to any Inhabitant of the Parish, District, or Place to which such Church belongs shall not be determined except by his ceasing to reside, or by Nonpayment of Rent.

Choice of Pews by Subscribers. 58 G. 3. c. 45. s. 76. 1 & 2 W. 4. c. 38. s. 21.

308. Parishioners subscribing towards the Site or the building of the Church of any Parish, District, or Place shall have the Choice of Pews at the Rates fixed by the Commissioners in the Order of the Amount of their respective Subscriptions, and the Subscribers of the same Amount according to the Priority of their respective Subscriptions.

Pew Rents to be settled by the Commissioners. 58 G. 3. c. 45. ss. 63. 78. 8 & 9 Vict. c. 70. s. 11.

309. The Scale of Rents from Time to Time fixed by the Commissioners for Pews and Seats in any Church shall be stated in a Table, under their Common Seal; and every such Table shall be deposited with the Deed of Consecration of the Church, and a Copy of such Table shall be hung up in the Vestry Room of the Church.

If Rent be in arrear Pews may be sold or let. 58 G. 3. c. 45. ss. 77. 79. 59 G. 3. c. 134. s. 32.

310. Where Pews or Seats are let by the Year, the Rent thereof shall be paid every *Six* Months in advance, but where the Term of letting is less than *Twelve* Months, the entire Rent shall be paid in advance; and if the Rent of any Pew or Seat shall be in arrear, then, after Notice in Writing demanding Payment thereof shall have been given to the Owner, Occupier, or Renter of such Pew or Seat, the Churchwardens may enter upon and hold such Pew or Seat, or let the same to any Person, as they may think fit, until the Rent so in arrear is satisfied, or otherwise sell, subject to the reserved Rent, such Pew or Seat by private Contract, and out of the Money thence arising pay the Rent in arrear, and all Costs and Charges occasioned by such Nonpayment or in the Recovery thereof, rendering the Overplus, if any, to the Owner, Occupier, or Renter, as the Case may be.

Recovery of Arrears of Pew Rents. 58 G. 3. c. 45. s. 79.

311. All such Rent, Costs, and Charges may also be recovered by such Churchwardens in any Court of competent Jurisdiction from the Owner, Occupier, or Renter of the Pew or Seat, as the Case may be, in the Name of the "Churchwardens of the Church" [describing the Church]; and no Proceeding for the Recovery of such Rent, Costs, and

and Charges shall abate by reason of the Death, Removal, or going out of Office of any Churchwarden.

Commissioners may discharge Subscribers from Payment of Pew Rents in proportion to their Subscription, and allow them to assign. 59G.3.c.134. s. 33. 1 & 2 W. 4. c. 38. s. 21.

312. The Commissioners, under their Common Seal, may discharge any Person giving a Site for or subscribing towards building or providing a Site for any Church, for which the Commissioners are authorized to fix a Scale of Pew Rents, from the Payment, wholly or in part, of Pew Rents in such Church, for a limited Time or for Life, in proportion to the Amount of his Subscription or the Value of the Gift, as the Commissioners deem fit, and may allow any such Subscriber or Donor, if he reside in the Parish, District, or Place in which such Church is situate, to assign, upon his Removal therefrom, his Interest in such Pew or Seat to any other Inhabitant of such Parish, District, or Place.

Forfeiture of Pews. 3 G. 4. c. 72. s. 25.

313. In case any Person, by whom a Pew or Seat is held for a longer Term than *One Year* shall cease to be an Inhabitant of the Parish, District, or Place in which such Church is situate, or voluntarily discontinue Attendance at such Church consecutively for the Space of *a Year*, then his Interest in such Pew or Seat shall at the Expiration of the then current Year cease, and such Pew or Seat shall be again let in manner herein-before mentioned: Provided, that nothing herein contained shall affect the Right of any Person who may have subscribed towards the Site or the building of any such Church, unless he shall cease to be an Inhabitant of the original Parish in which such Church is situate, or voluntarily discontinue Attendance at such Church consecutively for the Space of a Year.

Where a permanent Provision satisfactory to the Commissioners is secured in reduction of Pew Rents, Commissioners, with Consent of Bishop, may direct such Pew Rents to cease. 14 & 15 Vict. c. 97. s. 1. 19 & 20 Vict. c. 104. s. 7.

314. Where any Body or Person endows with such permanent Provision in Land or Property as is satisfactory to the Commissioners and the Bishop any Church for which Pew Rents have been previously fixed by the Commissioners, under the Provisions of the former Church Building Acts, or the former New Parishes Acts, or this Act, and where such Pew Rents have not been assigned or appropriated under any Local Act, such Endowment or Provision being made in lieu of and as a Substitute for such Pew Rents, in whole or in part, the Commissioners may, by an Order under their Common Seal, with the Consent of the Bishop, setting forth the Nature of such Endowment, and that it was made for the Object aforesaid, make an equivalent Reduction in the total Amount of the Rents authorized to be taken for the Pews or Sittings in such Church, if the same be not appropriated by Law for specific Purposes, either by a Reduction of the Rate or Scale, or by declaring certain specific Pews or Sittings theretofore chargeable with the Rents to be absolutely free.

 315. Any

Disposal of Pews or Seat so exempted from Rent. 14 & 15 Vict. c. 97. s. 1.

315. Any Pews or Seats so exempted from Rent shall thenceforth be at the Disposal of the Churchwardens of such Church in like Manner as the Pews or Seats of an ancient Parish Church, but the Pew Rents then due and payable shall nevertheless be payable and recoverable in the same Manner as if such Order had not been made.

Commissioners may assign Stipend to the Minister and Salary to the Clerk out of the Pew Rents. 58 G. 3. c. 45. ss. 21. 63, 64. 59 G. 3. c. 134. s. 26. 8 & 9 Vict. c. 70. s. 11.

316. The Produce of the Pew Rents of every Church for which a Scale of Pew Rents shall have been fixed under this Act shall form a Fund out of which the Commissioners, with the Consent of the Bishop, may assign a proper Stipend to the Spiritual Person serving any such Church, and a Salary to the Clerk; and if the Commissioners and Bishop do not agree as to the Amount of any such Stipend or Salary, such Amount shall be settled by the Archbishop of the Province.

Where no Appropriation of surplus Pew Rents has been made. 58 G. 3. c. 45. ss. 21. 64. 59 G. 3. c. 134. s. 28. 3 & 4 Vict. c. 60. s. 5. 19 & 20 Vict. c. 104. s. 6.

317. Subject to the Repayment of any Money which may have been borrowed by way of Loan, Annuity, or otherwise on the Security of the Pew Rents, the Commissioners may, if they deem fit, from Time to Time assign a Part or the whole of the surplus Pew Rents of such Church, accrued or hereafter to accrue, for the Use and Benefit of such Spiritual Person.

Assignment of Stipend to Minister to be registered. 3 & 4 Vict. c. 60. s. 5.

318. Every such Assignment shall be registered in the Registry of the Diocese.

Pew Rents may be assigned to Parish, subject to Stipend, &c. 59 G. 3. c. 134. s. 26.

319. The Commissioners may from Time to Time direct that the Pew Rents in any Church for which a Scale of Pew Rents may have been fixed shall, unless otherwise directed by this Act, be received by the Churchwardens, who shall pay thereout the Stipend from Time to Time assigned to the Minister and Clerk thereof.

Churchwardens only answerable for the Rent for which the Pews were actually let. 59 G. 3. c. 134. s. 26.

320. The Churchwardens of any such Church shall not be answerable to the Minister or Clerk thereof for any larger Sums of Money in each Year than the Amount of the Rent of the Pews actually let during the preceding Year.

Stipend and Salary fixed by the Commissioners to be paid to Ministers and Clerks quarterly.

321. The Stipend or Salary assigned or to be assigned by the Commissioners, under the Provisions of the former Church Building Acts, or the former New Parishes Act, or this Act, to the Minister and Clerk of any Church the Pew Rents of which have been already or may be hereafter fixed by the Commissioners, shall be paid to such Minister and Clerk respectively, according to the Terms of such Assignment; and the Churchwardens shall, after deducting and paying out of the Pew Rents the actual Expenses of collecting and recovering

recovering the same, pay such Stipend and Salary quarterly, so far as the Amount of the Pew Rents received by them will enable them so to do; and when by reason of any Deficiency in the net Produce of such Pew Rents the Churchwardens shall not be able to make full Payment to such Minister and Clerk, then (subject to the Deficiency being made up out of future Pew Rents) the Stipend or Salary of such Minister and Clerk shall abate rateably.

Surplus Pew Rents may be applied in Purchase of Parsonage House, &c., and Augmentation of Stipend. 59 G. 3. c. 134. s. 26.

322. Any Surplus of such Pew Rents remaining after Payment of the Stipend of the Ministers and other Expenses, whether such Surplus shall have already accrued or shall hereafter accrue, shall, except in any of the Cases next herein-after mentioned, be invested in Government Securities in the Names of such Trustees, and with such Provisions for the Appointment of new Trustees, as the Bishop may direct, and be suffered to accumulate for building or purchasing a House of Residence, with the Consent and Approbation of the Bishop, for the Incumbent for the Time being of such Church; and the Churchwardens, after Notice given to them by the Bishop that a sufficient Sum for such House of Residence has been provided, shall pay over from Time to Time such surplus Pew Rents to the Incumbent for the Time being of such Church, in augmentation of his Stipend, or shall apply the same to the Increase of the Accommodation in such Church as the Commissioners, with the Consent of the Bishop, may direct.

Surplus of Pew Rents, after Payment of Stipend, &c., may be applied to the Repayments of Money borrowed. 59 G. 3. c. 134. s. 27.

323. The Commissioners, with the Consent of the Bishop, may direct that the surplus Pew Rents of any Church for which a Scale of Pew Rents may be fixed, which shall remain after Payment of such Stipend and other Expenses, shall be applied from Time to Time towards the Repayment of any Money which may be borrowed by way of Loan at Interest, or by way of Annuity or otherwise, for or towards the building any such Church, the Purchase of any Site for the same, the defraying of all Expenses relative thereto, and keeping such Church in repair, and the Residue of such surplus Pew Rents, if any, shall, if the Commissioners think fit, be applied to or in aid of the Church Rate for the Repair of such Church.

Churchwardens may borrow Money on Credit of surplus Pew Rents. 59 G. 3. c. 134. s. 27. 3 & 4 Vict. c. 60. s. 5.

324. The Churchwardens of any such Church (with the Consent of the Commissioners) may borrow at Interest, or by way of Annuity or otherwise, upon the Credit of the Pew Rents, any Sum of Money for or towards the building of such Church, or purchasing such Site, or defraying the Expenses relating thereto, or keeping such Church in repair, and by Writing under their Hands may charge such Pew Rents, subject to such Stipends and Expenses, with the Payment of the Money so borrowed, and Interest thereon, or with the Payment of

such Annuity, as such Churchwardens, with such Consent, may think fit.

Part XII. not to apply to a Church of a Particular District or to a Church built by Householders or others.

325. Nothing contained in Part XII. of this Act shall, unless and except so far as the Commissioners shall order, apply to a Church the Patronage of which is vested in the Body or Person endowing the same, or to any Church, until a District be assigned thereto, built by Householders or others; or by Subscribers and Parishioners, under the Provisions contained in Part II. of this Act.

PART XIII.

Offices and Officers of the Church, and Fees.

Laws and Customs relating to the Offices of the Church, &c. to apply to all District Churches and new Parishes. 58 G. 3. c. 45. ss. 27, 28. 59 G. 3. c. 134. s. 17. 3 G. 4. c. 72. ss. 17, 18. 1 & 2 W. 4. c. 38. s. 14. 6 & 7 Vict. c. 37. s. 15. 7 & 8 Vict. c. 56. s. 1.

326. The Laws and Customs relating to the Performance of the Offices of the Church, and to the suing for and recovering of Fees, Dues, Offerings, and Emoluments in respect thereof, and to the registering of Baptisms, Marriages, and Burials, and to the Fees in respect of such Registration, shall apply to every new Parish, District Chapelry, Consolidated Chapelry, or other Ecclesiastical District formed under the Provisions of the former Church Building Acts, the former New Parishes Acts, or this Act, in the respective Churches of which such Offices respectively can be performed, and to the Spiritual Persons having the Cure of Souls therein, or serving such Churches, in like Manner as if the same were by Law ancient separate and distinct Parishes and Parish Churches.

No Fee to be received for Baptism. 6 & 7 Vict. c. 37. s. 15.

327. No Spiritual Person shall be entitled to or receive any Fee for the Ministration of Baptism, or for the Registration thereof.

When Marriages can be solemnized in a Church the Bishop of the Diocese to certify the same. 58 G. 3. c. 45. s. 29. 3 G. 4. c. 72. s. 19. 7 & 8 Vict. c. 56. s. 2.

328. Whenever Banns of Marriage may, under this Act, be published and Marriages solemnized in any Church the Bishop of the Diocese within which such Church is situate shall certify the same, and such Certificate shall be kept in the Chest of the Church with the Books of Registry thereof, and a Copy thereof shall be entered in the Books of Registry of Banns and Marriages, and a Duplicate of such Certificate shall be registered in the Registry of the Diocese, and such Certificate shall in all Questions relating to any Banns published or Marriages solemnized in any such Church be received as conclusive Evidence in all Courts, and that the same might, according to Law, respectively be published and solemnized in such Church: Provided that no Banns or Marriages respectively published or solemnized according to the Laws and Canons in any Church in which the same are by this Act authorized to be respectively published and solemnized, shall be illegal or voidable by

Marriages not to be invalid for Want of such Certificate, if solem-

reason

reason of any such Certificate not having been duly given, registered, or entered, as herein-before required.

nized in the Churches authorized by this Act.

329. Upon Application of the Incumbent of any Church to which a District shall belong, the Commissioners may, with the written Consent of the Bishop, make an Order, under their Common Seal, authorizing the Performance therein of the Offices of the Church or any of such Offices; and all the accustomed Fees arising within the Limits of such District shall be payable and be paid to the Incumbent of such Church.

Commissioners may authorize Performance of the Offices of the Church in Church of any District. 19 & 20 Vict. c. 104. s. 11.

330. Where all or any Part of the accustomed Fees arising within the Limits of any District in the Church thereof shall have been reserved, or, if such last-mentioned Order had not been made, would belong to the Incumbent of the original Parish, District, or Place out of which the District of such Church shall have been taken, or to the Clerk thereof, an Account of such Fees shall be kept by the Incumbent and Clerk of such Church, who are hereby respectively required to receive and every *Three* Months pay over the same to the Incumbent and Clerk respectively who would have been entitled to them in case such Districts had not been formed.

Reserved Fees to belong to Incumbent of Mother Church until first Avoidance or Relinquishment, then to Incumbent of District. 19 & 20 Vict. c. 104. s. 12.

331. From and after the next Avoidance of the Incumbency of the original Parish, District, or Place, or the Relinquishment of such Fees by the Incumbent thereof, or after the Office of such Clerk shall have become vacant, or after a Compensation in lieu of Fees has been awarded to him by the Bishop, which he is hereby empowered to do, such Reservations shall respectively cease; and all such Fees and Dues shall respectively belong to the Incumbent of the District within which the same shall arise, or to the Clerk of the Church thereof.

When Fees to Incumbent and Clerk of original Parish shall cease. 19 & 20 Vict. c. 104. s. 12.

332. Except when otherwise especially provided, the Commissioners may from Time to Time, with the Consent of the Bishop and of the Vestry or Persons exercising the Powers of Vestry in any Parish, distinct and separate Parish, or District Parish, make, fix, and alter a Table of Fees for such Parish.

Commissioners, with the Consent of the Bishop, &c., may fix Table of Fees for any Parish. 59 G. 3. c. 134. ss. 6. 11.

333. The Commissioners may, from Time to Time, with the Consent of the Bishop, make, fix, and alter a Table of Fees for any Extra-parochial Place, any District Chapelry, Consolidated Chapelry, or Parochial Chapelry in which any Church shall have been built or appropriated under the former Church Building Acts or this Act.

Commissioners, with Consent of Bishop, may fix Fees for Extra-parochial Places. 59 G. 3. c. 134. s. 11.

 334. Tables

Table of Fees to be registered.

334. Tables of Fees made under this Act shall be registered in the Registry of the Diocese.

Fees may be sued for. 59 G. 3. c. 134. s. 11.

335. All Fees so fixed or altered may be received, sued for, and recovered by the Spiritual Person or Clerk or Sexton to whom the same shall be payable in like Manner as if the same were ancient legal Fees of a like Nature.

Churchwardens to preserve Order, collect Pew Rents, &c. 58 G. 3. c. 45. s. 73. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. ss. 6, 7.

336. The Churchwardens of the Church of every new Parish, Consolidated Chapelry, District Chapelry, and of every Church the Patronage whereof has been vested in the Body or Person building and endowing the same or in their Nominees, or other Church without a District, of the Site of which the Commissioners shall have accepted a Conveyance, shall be admitted to their Office, and shall, in addition to any particular Duties prescribed under this Act, execute all Things pertaining to the Office of Churchwardens, concerning the Repairs of the Church, the Management, good Order, and Decency of Behaviour to be kept and observed in the Church of which they are the Churchwardens by the Congregation thereof, and in case of Nonpayment of the Rents, if any, of the Pews and Seats of the Church of which they are Churchwardens, may enter upon and sell, subject to the reserved Rent, such Pews or Seats, or else sue for and recover such Rents by an Action, in the Names of "The Churchwardens of the Church or Chapel of" [*describing the same*], as the Case may be, without specifying the Christian or Surnames of such Churchwardens; and no such Action shall abate by reason of the Death, Removal, or going out of Office of any such Churchwardens.

Churchwardens to continue in Office until their Successors are appointed. 8 & 9 Vict. c. 70. s. 6.

337. The Persons appointed or chosen Churchwardens under this Act shall continue in their Office until others shall be appointed and admitted in their Stead.

Limitation of the Duties of Churchwardens in certain Cases. 8 & 9 Vict. c. 70. s. 8.

338. Such Churchwardens shall not be Churchwardens for any other Duties than those prescribed for them under this Act, but all other legal Duties appertaining to the Office of Churchwardens, with respect to such Parishes, Chapelries, Districts, and Churches, shall be discharged by the Churchwardens who would have discharged the same if this Act had not been passed.

Churchwardens not to be Overseers of the Poor. 8 & 9 Vict. c. 70. s. 8.

339. Churchwardens appointed and admitted under this Act shall not be in consequence of such Office Overseers of the Poor.

Appointment of Clerk.

340. The Clerk of every Church built wholly or in part by means of any Grant from the Commissioners, or acquired or appropriated under

under the former Church Building Acts or this Act, shall be appointed by the Minister for the Time being of such Church, and may be at any Time removed at the Will of such Minister. 59G.3.c.134. s. 29.

Commissioners may assign a Salary to the Clerk out of Pew Rents. 58 G. 3. c. 45. s. 64.

341. The Commissioners may assign, out of the Pew Rents, a Salary to the Clerk of any such Church.

Clerks and Sextons of new Districts may recover their Fees, &c. 59G.3.c.134. s. 10. 1 & 2 W. 4. c. 38. s. 14. 7 & 8 Vict. c. 56. s. 2.

342. The Clerk and Sexton respectively of every new Parish, Consolidated Chapelry, and District Chapelry shall be entitled to receive and recover all Fees, Dues, and Emoluments arising in such Parish, Chapelry, or District which the Clerk and Sexton respectively of the Parish, District, or Place out of which such Parish, Chapelry, or District was formed, either wholly or in part, would have been entitled to if the same had not been formed, and in like Manner as such last-mentioned Clerks and Sextons would have been entitled to receive and recover the same.

Reservation of Fees to existing Clerk and Sexton. 19 & 20 Vict. c. 104. s. 12. 1 & 2 W. 4. c. 38. s. 14. 7 & 8 Vict. c. 56. s. 2.

343. So long as the Persons who at the Time of the Formation of any such Parish or Chapelry, were Clerk and Sexton respectively of any Parish, District, or Place out of which such Parish or Chapelry was formed, continue to hold their respective Offices, such Fees, Dues, and Emoluments as they would have been entitled to if such Parish or Chapelry had not been formed shall, unless such Clerk and Sexton have relinquished the same, be accounted for and paid over to them respectively by the Clerk and Sexton of such Parish or Chapelry respectively; but after the Clerk or Sexton of the original Parish, District, or Place respectively shall cease to hold their Offices such Fees, Dues, and Emoluments shall belong to the Clerk and Sexton of the Parish or Chapelry respectively.

PART XIV.

Burials, Churchyards, and Chapels for Performance of the Burial Service.

For Purposes of Burial Acts, every new Parish to be an Ecclesiastical District. 19 & 20 Vict. c. 104. s. 32.

344. For the Purposes of the Acts concerning or regulating the Burial of the Dead, every new Parish shall, subject to the Provisions of the Act passed in the Twenty and Twenty-first of the Queen, Chapter Eighty-one, be held to be an Ecclesiastical District within the Meaning of the said Acts.

Until a Burial Ground is provided for a distinct and separate

345. Until there be a Burial Ground belonging to any distinct and separate Parish, or District Parish, or new Parish, then the Bodies of Persons dying within such distinct and separate Parish,

Parish, &c. Inhabitants may be buried in the original Parish. 7 & 8 G. 4. c. 72. s. 2.

District Parish, or any new Parish shall or may (unless Burials shall have been discontinued therein) be interred in the Burial Ground belonging to the original Parish, District, or Place.

No Opening to be made in any Church for Burials or Graves made in any Churchyard at a less Distance than 20 Feet from the Church.

346. No Body or Person shall, for the Purposes of Burial, break up the Pavement or open the Soil beneath such Pavement, within any Church, erected under the former Church Building Acts, the former New Parishes Acts, or this Act, or make any Grave in any adjacent Cemetery or Churchyard thereto, at any less Distance than *Twenty* Feet from the external Walls of such Church; but nothing herein contained shall prevent the Burial of Dead Bodies in any Vault wholly arched with Brick or Stone, which may have been constructed for such Purposes under any Church, and to which the only Access is by Steps on the Outside of the external Walls thereof.

Not to prevent Burials in Vaults. 58 G. 3. c. 45. s. 80.

If any Burial take place or any Grave be made otherwise than is herein provided, forfeit the Sum of 50*l.* 58 G. 3. c. 45. s. 80.

347. If any Burial take place, or any Grave be made, otherwise than is herein provided, the Person making, ordering, or causing the same to be made shall for every such Offence, on Summary Conviction thereof before Two Justices of the Peace, forfeit and pay the Sum of *Fifty Pounds;* and in default of Payment thereof the same shall and may be levied and recovered by Warrant under the Hands and Seals of such Justices, by Distress and Sale of the Goods and Chattels of such Offender, rendering the Overplus (if any) to the Owner thereof, of which Penalty *One Moiety* shall be given to the Informer, and the *other Moiety* to the Use of the Poor of the Parish in which such Church shall be.

Commissioners may alter Fences of Churchyards, and turn Footpaths, &c. 59 G. 3. c. 134. s. 39.

348. The Commissioners may alter, repair, pull down, and rebuild the Walls or Fences of any existing Churchyard or Burial Ground of any Parish, District, or Place, and fence off with Walls or otherwise any additional or new Burial Ground to be set out or provided under this Act, and may also stop up, discontinue, alter, or vary any Entrance or Gate leading into any Church Yard or Burial Ground, and the Paths, Footways, and Passages into, through, or over the same, provided the same be done with the Consent of any Two Justices of the Peace of the County, City, Town, or Place where any such Entrance, Gate, Footway, Path, or Passage so to be stopped or altered is situate, and on Notice being given as prescribed by an Act passed in the Session holden in the Fifth and Sixth Years of King William the Fourth, Chapter Fifty, intituled "An Act to consolidate "and amend the Laws relating to Highways in that Part of Great "Britain called England."

Commissioners may direct that

349. Where any Land purchased or obtained for a new or additional Burial Ground for any Two or more of the Parishes, Districts, or Places

Places included in the Expression Parish, District, or Place is conveyed to the Commissioners or to such Body or Person as they may direct, the Commissioners may order and direct in such Conveyance, or by any Instrument under their Common Seal, that any Chapel which at the Time of such Order and Direction has been or may be thereafter erected on any Portion of such Land for the Performance of the Burial Service therein, and any Lodge or other Building which at the Time of such Order and Direction has been erected or may thereafter be erected on any Part of such Land, and also any Access or Approach to and from such Chapel, Lodge, or other Building, shall be for the Use of all and each of such Parishes, Districts, or Places.

One Chapel shall be used by different Parishes, Districts, or Places for which Burial Grounds contiguous to each other shall have been provided. 9 & 10 Vict. c. 68. s. 1.

350. The Officiating Minister of each such Parish, District, or Place respectively may use such Chapel for the Purpose of the Burial Service therein; and in respect to the Use of such Burial Ground by each such Parish, District, or Place, the like Fees for the Performance of such Burials, and for the making, opening, or using any Catacombs, Vaults, or Ground for Burials within each such Burial Ground, shall be due and payable as are accustomed to be taken in each such Parish, District, or Place respectively; and the Use of such Chapel, Lodge, or other Building by such Officiating Minister shall be subject to such Regulations as the Bishop shall from Time to Time make under his Hand and Seal.

Ministers of each Parish may use the Chapel.

Same Fees payable as are due in Parishes, &c. for which Ground has been purchased. 9 & 10 Vict. c. 68. s. 1.

351. The Bishop may declare in the Sentence of Consecration that such Chapel is intended for the Use of such respective Parishes, Districts, or Places for the Performance of the Burial Service therein; and if, after the Consecration of such Chapel, any additional Land be conveyed to the Commissioners, or to any other Body or Person, as a Burial Ground, for the Use of such Parishes, Districts, or Places, or for the Use of any other Parish, District, or Place, (such Land adjoining or being near to such former Land so conveyed,) such Chapel, subject to the Regulations by the Bishop, may be used for the Performance of the Burial Service in such additional Ground, and such Lodge or other Building, and every Access and Approach to and from such Chapel, Lodge, or Building, may be used for such Purpose.

Bishop of the Diocese may declare in the Sentence of Consecration that such Chapel is intended for the Use of such respective Parishes, Districts, or Places. 9 & 10 Vict. c. 68. s. 2.

352. For the Enclosure of such Land One Boundary Fence around the whole may by the Bishop (if he think fit) be declared sufficient, without any Subdivision Fences enclosing the Portions so conveyed, for the Use of the several Parishes, Districts, or Places respectively; but if the Bishop think fit he may require such Bound Stones to be put down as may appear to him necessary for marking

One Boundary Fence sufficient. Bishop may direct Bound Stones to be put down for marking Boundaries

of each Parish, &c. 9 & 10 Vict. c. 68. s. 3.

marking the Boundaries of the Land so conveyed to the Commissioners for the Use of the respective Parishes.

This Act not to authorize any Church Rate for the Repair of the Chapel, &c. 9 & 10 Vict. c. 68. s. 4.

353. Nothing herein contained shall authorize any Church Rate to be made on such Parishes, Districts, or Places or any of them for the Repair or Sustentation of such Chapel, Lodge, or other Building, or Fence, but such Repair or Sustentation shall be provided for by such a Sum of Money as the Commissioners shall consider sufficient.

A sufficient Fund for such Repair or Sustentation shall be set apart, and invested in the Names of Trustees. 9 & 10 Vict. c. 68. s. 4.

354. Such Sum shall be set apart, and invested in Government Securities in the Names of Trustees to be appointed by the Commissioners, and shall be held by such Trustees in trust for the Purposes aforesaid, and the Dividends or annual Proceeds arising therefrom shall be applied in such Repair and Sustentation, as and when the Trustees for the Time being, with the Consent of the Bishop, shall from Time to Time direct.

Vacancies amongst Trustees to be filled up. 9 & 10 Vict. c. 68. s. 4.

355. In case of a Vacancy amongst such Trustees, the remaining Trustees, and if there be no remaining Trustee, or no Trustee that is capacitated or willing to act, the Bishop, shall supply such Vacancy by the Appointment of a fresh Trustee, who shall hold such Trust Fund, and apply the annual Dividends and Proceeds arising therefrom, jointly with the remaining Trustees, if any, in like Manner as the Trustee in whose Place he shall be appointed.

Freehold of Chapel, &c. to vest in the Bishop of the Diocese. 14 & 15 Vict. c. 97. s. 28.

356. The Freehold of any such Chapel, when consecrated, and the Site thereof, and of any Lodge, Walls, or Gates on any Part of such Burial Ground, shall vest in the Bishop of the Diocese in which the same is situate, and the Preservation and Custody thereof shall belong to the Trustees for the Time being of such Repair Fund, who shall have Power from Time to Time to make such Order and Regulations as may to them in that Behalf seem proper.

PART XV.

Powers of the Commissioners; Schemes, Orders in Council, and Consents thereto.

Commissioners may make Grants or Loans or expend Money. 58 G. 3.

357. The Commissioners, at their Discretion, may, out of any Property at their Disposal respectively applicable thereto, make Grants or Loans or expend Money for the following Purposes or any of them; viz., For

For or in aid of building Churches or rebuilding or enlarging Churches (where further Accommodation for the Performance of Divine Service according to the Use of the United Church may be required): c. 45. s. 21. 59 G. 3. c. 134. s. 7. 3 G. 4. c. 72. s. 5. 8 & 9 Vict. c. 70. s. 12.

For or towards the Purchase of Sites for building Churches, with or without Burial Grounds: 3 G. 4. c. 72. s. 3.

For or towards purchasing Burial Grounds (either within or without the Boundaries of the Parishes for which they are to be provided), and for or towards enlarging existing Burial Grounds: 6 & 7 Vict. c. 37. s. 24. 59 G. 3. c. 134. s. 5.

For or towards providing, in case of a Parish divided into Townships, Hamlets, Vills, Chapelries, or other Divisions, further Accommodation for Divine Service:

For or towards the Endowment or Augmentation of the Income of Ministers and Perpetual Curates of separate Parochial Districts and new Parishes to such an Amount or in such Proportion and in such Manner as shall be deemed expedient by the Authority of a Scheme and Order in Council: 6 & 7 Vict. c. 37. s. 19.

For or towards making Compensation to any existing Incumbent of a Mother Church for the Loss which he may sustain by reason of the Transfer of any Fees, Dues, Oblations, or Offerings to the Incumbent of a District Chapelry, Consolidated Chapelry, separate Parochial District, or new Parish: 58 G. 3. c. 45. s. 32. 14 & 15 Vict. c. 97. ss. 2, 3, 4. 19 & 20 Vict. c. 104. s. 13.

For or towards the Erection of a Church for a new Parish, although the Right of Patronage of such Church may not belong on the Consecration thereof to the Incumbent of the original Parish in which such Church is situate. 6 & 7 Vict. c. 37. s. 24.

358. The Commissioners shall have Power, from Time to Time as Occasion may require, to make new Rules for regulating their Proceedings, and such Regulations as they may deem expedient for the Furtherance of the Provisions of this Act, and by any such Rules to rescind or alter any Rules or Regulations for the Time being in force. And all such Rules and Regulations shall be laid before Her Majesty in Council, who shall have Power to approve of or disallow the same. Powers to Commissioners to make new Rules.

359. The official Minutes of the Commissioners shall be admitted as Evidence in judicial and other Proceedings. Minutes of the Commissioners to be received as Evidence.

360. The Secretary of the Commissioners may on their Behalf sign any Contract or other Instrument, if authorized by them, not hereby specially directed to be done under the Common Seal of the Commissioners, and such Instrument shall be binding on the Commissioners, as if the same had been done under their Common Seal, and any such Contract purporting to be made with the Commissioners, Secretary of the Commissioners may sign any Contracts in their Behalf.

sioners, if so signed by their Secretary, shall be as effectual as if their Common Seal had been put thereto.

Reports, Accounts, and Returns of Proceedings under this Act. 58 G. 3. c. 45. s. 81.

361. The Commissioners shall, upon the *First Day of February* in every Year, prepare Reports and Accounts, stating the Number and Description of Parishes or Districts formed or assigned, the Number of Churches built or building, the Accommodation therein provided or intended to be provided, the Stipends assigned to the Incumbents or Curates, the Money expended by the Commissioners, and for what Purposes, the Nature and Amount of Endowments provided under this Act, the Mode in which any Patronage has been dealt with by the Commissioners or with their Concurrence, and in whom it is vested, the Offices of the Church directed to be solemnized or performed in any Church or Chapel, the Appropriation of the Fees arising from such Offices,, and all such other Particulars as shall be necessary for explaining the Progress made by them during the last preceding Year in carrying this Act into execution, and such Reports and Accounts shall annually be laid before both Houses of Parliament.

Commissioners may make Representations to the Queen in Council for the Formation of Ecclesiastical Districts, and Orders in Council may be made for giving effect thereto. 58 G. 3. c. 45. ss. 16. 21. 59 G. 3. c. 134. ss. 6. 16. 1 & 2 Vict. c. 107. s. 12. 6 & 7 Vict. c. 37. ss. 8, 9. 8 & 9 Vict. c. 70. s. 9. 19 & 20 Vict. c. 104. ss. 1. 29. 6 & 7 Vict. c. 37. s. 20. 19 & 20 Vict. c. 104. ss. 16. 26.

362. When the Commissioners deem it expedient, that any distinct and separate Parish, Consolidated Chapelry, or District Chapelry should be formed, or any Extra-parochial Places be annexed thereto respectively, or that a separate Parochial District, either without or with a specified Church, should be formed, or that the Patronage of any such separate Parochial District, or of a new Parish or other Benefice, should be assigned or transferred in return for Endowment, or that in Parishes previously divided, the Endowments thereof should be resettled and apportioned under this Act; and in all other Cases where the Commissioners are under this Act authorized to make any Representation to Her Majesty in Council in relation to any other Act, Matter, or Thing, they shall, with the Consents required by this Act, represent to Her Majesty in Council the Expediency of forming such Parish, Chapelry, or District, or annexing such Extra-parochial Place, or assigning or transferring such Patronage, or resettling and apportioning such Endowments, or carrying into effect such other Act, Matter, or Thing, and shall set forth in their Representation the Arrangements proposed by them for such Purposes respectively, in conformity with this Act.

Effect of the Order in Council.

363. In case Her Majesty in Council shall order the Formation of such Parish, Chapelry, or District, the Annexation of such Extra-parochial Place, the Assignment or Transfer of such Patronage, the resettling or apportioning such Endowments, or the carrying into effect any such other Act, Matter, or Thing, such Order shall be valid

valid for giving effect thereto respectively, and to all Arrangements proposed by such Representations, notwithstanding any Local Act.

364. The Powers vested in Her Majesty in Council and in the Commissioners by the Acts of the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth Years of the Queen, Chapter Forty-nine, with reference to the Matters therein contained, and all other the Provisions of the same Acts relating to Schemes and Orders prepared, made, and issued for the Purposes thereof, shall be continued and extended and shall apply to Her Majesty in Council and to the Commissioners, and to all Schemes and Orders prepared, made, and issued by them respectively, with reference to the Formation of any separate District, either with or without a specified Church, and to the resettling and apportioning of the Endowments of a divided Parish, and to any Assignment or Transfer of Patronage in return for Endowment under Part IX. of this Act, and to all Matters relating thereto.

Powers of 3 & 4 Vict. c. 113. and 4 & 5 Vict. c. 39. extended to this Act. 6 & 7 Vict. c. 37. s. 23. 19 & 20 Vict. c. 104. s. 30.

365. In any Representation to Her Majesty in Council, or in any Order of Council to be made thereon, or in any other Act, Matter, or Thing to be done by the Commissioners under this Act, it shall be sufficient to refer to the Section or Sections as numbered in Copies printed by the Queen's Printer of the Acts under the Authority whereof such Representation or Order in Council is expressed to be made or such Act, Matter, or Thing done, and it shall not be necessary to recite any of the Provisions of such Section.

In any Representation to the Queen in Council, &c. the Number of the Section of the Act under which such Representation, &c. is made need not be recited. 7 & 8 Vict. c. 56. s. 5.

366. Every Order in Council made under this Act shall have and be of the same Force and Effect as if all and every Part thereof was included in this Act, and as soon as may be after the making thereof shall be inserted in the London Gazette, and be then registered in the Registry of the Diocese; and Notice of such Order shall be given in such Manner as the Commissioners shall direct.

Order in Council to be gazetted and registered in the Registry of the Diocese. 58 G. 3. c. 45. s. 22. 3 & 4 Vict. c. 113. s. 86. 6 & 7 Vict. c. 37 ss. 8, 9, 10, 23. 7 & 8 Vict. c. 56. s. 6. 19 & 20 Vict. c. 104. s. 30.

367. Every Representation to be made by the Commissioners to Her Majesty in Council for the Formation of any new Parish, Consolidated Chapelry, District Chapelry, or separate Parochial District, shall set forth the proposed Boundaries thereof, and the Name by which it is proposed that such Parish, Chapelry, or District should be called, and such Boundaries shall also be described or delineated on a Map or Plan to be annexed to such Representation, and such Map or Plan, or a Copy thereof, shall be sealed with the Common Seal of the Commissioners, and registered in the Registry of the Diocese

Representations of Commissioners to set forth the Boundaries for the Formation of a new Parish, &c. and a Map thereof to be registered. 58 G. 3. c. 45. s. 22. 6 & 7 Vict. c. 37. s. 10.

7 & 8 Vict. c. 56. s. 6. 7 & 8 Vict. c. 94. s. 8.

Diocese, together with any Order in Council ratifying such Representation.

Such Boundaries may be altered. Requisite Consents. 58 G. 3. c. 45 s. 23. 3 & 4 Vict. c. 60. s. 6. 7 & 8 Vict. c. 94. s. 9. 8 & 9 Vict. c. 70. s. 16. 11 & 12 Vict. c. 37. s. 3. 13 & 14 Vict. c. 94. s. 27.

368. Her Majesty in Council, upon a Representation of the Commissioners, made with the Consents of the Bishop and of the Patrons and Incumbents of any Parish, District, or Place to be affected, under their respective Hands and Seals, may from Time to Time alter the Boundaries of any new Parish, Consolidated Chapelry, District Chapelry, or separate Parochial District formed under the former Church Building Acts, the former New Parishes Acts, or this Act, and may also add thereto any Portions of any adjacent Parish, District, or Place.

Where Patron or Incumbent do not consent. 3 & 4 Vict. c. 60. s. 7.

369. If the requisite Consent of any Incumbent or Patron of any Parish, District, or Place be not obtained to such Alteration of Boundaries, such Order in Council may, with the Consent of the Bishop, be made on the Representation of the Commissioners; but such Alteration shall not take effect so as to affect the Parish, District, or Place of which the Patron or Incumbent shall refuse to consent, until after the next Avoidance of the Church thereof.

Rearrangement of Boundaries. 7 & 8 Vict. c. 94. s. 9.

370. Any Portion of any such Parish, Chapelry, or District which by any such Alteration of Boundaries shall become detached or excluded therefrom shall either again belong to and form Part of the Parish, District, or Place out of which such Portion was originally taken, or belong to and form Part of any other Parish, District, or Place, as shall be specified in such Representation.

Who to be deemed Patrons for the Purposes of Notice. 6 & 7 Vict. c. 37. s. 23. 19 & 20 Vict. c. 104. s. 20.

371. The Provisions contained in an Act passed in the Second Year of the Queen, Chapter One hundred and six, respecting the Party to be deemed Patron for the Purposes of Notice to be served upon and Consent to be given by such Patron, and also respecting the Manner in which and the Party by whom any such Consent is to be given, shall be construed to apply to the like Matters respectively under this Act.

Persons entitled to the Right of Presentation if the same were then vacant.

372. The Person or Persons, if not more than Two, or the Majority of the Persons, if more than Two or the Corporation, who or which would for the Time being be entitled to the Turn or Right of Presentation to any Benefice if the same were then vacant, shall for the Purposes of this Act be considered to be the Patron thereof.

Alternate Presentation.

373. Where different Patrons are entitled to exercise alternately the Turn or Right of Presentation to any Benefice, the Person or Persons,

Persons, if not more than Two, or the Majority of the Persons, if more than Two, or the Corporation, who or which would for the Time being be entitled to the next Turn or Right of Presentation to any Benefice if the same were then vacant, shall for the Purposes of this Act, jointly with the Person or Persons or Corporation entitled to the First Turn or Right of Presentation, be considered to be the Patron thereof.

Consent of the Crown. 1 & 2 W. 4. c. 38. s. 15. 1 & 2 Vict. c. 107. s. 2.

374. In every Case in which the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or to or in any Agreement under this Act, and in every Case in which any Notice is required by this Act to be given to the Patron of any Benefice, and the Patronage of such Benefice is in the Crown, such Consent or Concurrence shall be testified and such Notice shall be given respectively in manner herein-after mentioned; that is to say, if such Benefice be above the yearly Value of *Twenty Pounds* in the Queen's Books, the Instrument by which such Power is exercised or Agreement made shall be executed by and any such Notice given to the Commissioners of Her Majesty's Treasury; and if such Benefice do not exceed such yearly Value in the Queen's Books, such Instrument or Agreement shall be executed by and such Notice given to the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal; and if the Patronage of such Benefice be in the Crown in right of the Duchy of Lancaster, such Instrument or Agreement shall be executed by and any such Notice given to the Chancellor of such Duchy; and the Execution of such Instrument or Agreement by and any such Notice given to such Person or Persons shall be deemed and taken for the Purposes of this Act to be an Execution by and a sufficient Notice to the Patron of the Benefice.

Consent of the Duke of Cornwall. 5 G. 4. c. 103. s. 19.

375. In every Case in which the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or to or in any Agreement under this Act, and in every Case in which any Notice is required by this Act to be given to the Patron of any Benefice, and the Advowson and Right of Patronage of such Benefice is Part of the Possessions of the Duchy of Cornwall, such Consent or Concurrence shall be testified and such Notice given respectively in the Manner herein-after mentioned; (that is to say,) the Instrument by which such Power is exercised or Agreement made shall be executed by, and such Notice given to the Duke of Cornwall, if of full Age, or if the Duke of Cornwall be a Minor such Instrument or Agreement shall be executed by any Three of the Council of His Royal Highness, and such Notice shall be given to any One of such Council; and if there be no Duke of Cornwall, and such Benefice be

in the Patronage of the Crown in right of the Duchy of Cornwall, such Instrument or Agreement shall be executed by and such Notice given to the Person or Persons by this Act authorized to testify the Consent of the Crown in the Case of a Benefice the Patronage of which is in the Crown; and the Execution of such Instrument or Agreement by and any such Notice given to the Persons aforesaid shall be for the Purposes of this Act an Execution by and a sufficient Notice to the Patron of such Benefice.

Consent of Corporations Aggregate.

376. If the Consent or Concurrence of any Corporation Aggregate be requisite to any Deed, Writing, or Instrument to be made in pursuance of or for the Purposes of this Act, such Consent or Concurrence shall be signified under the Common Seal of such Corporation.

Consent of Bishops and Ecclesiastical Corporations. 1 & 2 W. 4. c. 38. s. 26.

377. The Consent or Concurrence of Bishops, Deans, and Chapters, or other Ecclesiastical Corporations or Colleges, acting as Patrons of Benefices in right of their Bishoprics, Dignities, or Corporate Capacities, shall be as valid for all the Purposes of this Act, as if such Consent or Concurrence had been given by a Patron absolutely and beneficially entitled.

Avoidance by an Ecclesiastical Corporation.

378. In the Case of an Ecclesiastical Corporation Aggregate, an Avoidance of any Benefice held or enjoyed by such Corporation shall for any of the Purposes of this Act be deemed to have taken place after *Fifteen* Years from the Time of the passing of any Order in Council, or the Execution or doing of any Deed, Matter, or Thing, which under this Act is to take effect upon the next Avoidance of such Benefice.

How Consents of certain Parties shall be given, and what Notices shall in certain Cases be sufficient. 1 & 2 W. 4. c. 38. s. 15. 2 & 3 Vict. c. 49. s. 22. 3 & 4 Vict. c. 60. s. 21.

379. Where the Consent of or the Execution of any Deed or Instrument by the Patron of any Cathedral Preferment, or of any Benefice, Sinecure Rectory, or Vicarage, is required for carrying into effect any of the Purposes of this Act, and also where it may be necessary to give any Notice to any such Patron for any of such Purposes, the Consent of, Execution by, or Notice to the Patron or Person entitled to make Donation, or present or nominate to such Cathedral Preferment, Benefice, Sinecure Rectory, or Vicarage, in case the same were then vacant, shall respectively be sufficient.

Consent of Minors, Idiots, &c. 1 & 2 W. 4. c. 38. s. 15. 1 & 2 Vict. c. 106. s. 127.

380. Where the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or any Agreement under this Act, or where any Notice is required by this Act to be given to the Patron of any Benefice, and the Patron of such Benefice is a Minor, Idiot, Lunatic, or Feme Covert,

Covert, the Guardian or Committee or Husband of such Patron (but in the Case of a Feme Covert with her Consent in Writing) may execute the Instrument by which such Power is exercised or Agreement made, in testimony of the Consent of such Patron, and such Notice shall be given in each such Case to such Parties respectively; and such Execution and such Notice shall for the Purposes of this Act be an Execution by and Notice to the Patron of the Benefice; and any Patron who shall be entitled at Law or in Equity for an Estate for Life, or a Term of Years determinable on a Life or Lives, or a greater Estate, shall be considered as Patron for the Purposes of this Act. 2 & 3 Vict. c. 49. s. 22. 3 & 4 Vict. c. 60. s. 21.

381. If any Body or Person sustain all or more than One of the Characters in which their or his Execution of or Consent to or Concurrence in any Deed or Act is required by this Act, such Body or Person shall or may at any Time act in both or all of the Characters which they or he shall so sustain, and execute and do all or any of such Deeds and Acts as are hereby authorized to be executed and done, as effectually as different Persons, each sustaining One of those Characters, could execute and do the same. Same Party may consent in more than One Character.

382. Where the Consent of, or the Execution of any Deed or Instrument by, or any Notice to, any Patron and Incumbent or either of them, of any Parish, District, or Place, is required for carrying into effect any of the Purposes of this Act, and there shall be no known Patron and Incumbent, or either of them, which Fact shall be certified by the Bishop to the Commissioners, the Consent of or the Execution of any such Deed or Instrument by, or giving of such Notice to the Bishop, shall, for the Purposes of this Act, have the same Effect as the Consent of, or Execution by, or Notice to, a Patron and Incumbent. Where there is no Patron or Incumbent.

383. If any Incumbent or Patron to whom it shall be necessary under this Act to transmit or deliver the Draft of any Scheme proposed to be laid before Her Majesty in Council, or to give any Notice required by this Act, shall be beyond the Seas, it shall be sufficient to leave such Draft or Notice, in the Case of an Incumbent, at the House of Residence belonging to his Benefice or Church, or if there be no such House of Residence then at his last usual Place of Abode in England, and in the Case of a Patron at his last usual Place of Abode in England. How Scheme to be served where Incumbent or Patron absent from England. 7 & 8 Vict. c. 94. s. 4.

384. In the Case of any such absent Incumbent or Patron the Scheme shall not be laid before Her Majesty in Council until after the Expiration of *Two Months* from the Day on which the When Scheme, in case of absent Incumbent, to be

laid before the Queen. 7 & 8 Vict. c. 94. s. 4.

Draft thereof shall have been so left, unless such Incumbent and Patron shall in the meantime consent thereto.

How where Incumbent incapacitated or Benefice sequestered. 7 & 8 Vict. c. 94. s. 5.

385. If any such Incumbent being an Idiot or Lunatic or of unsound Mind, or any Benefice or Church be under Sequestration, or the Duties thereof be performed by a Curate duly appointed in consequence of the Suspension or the reputed Incapacity of the Incumbent thereof, it shall be sufficient to deliver or transmit the Draft of any such Scheme or to give any such Notice to the Committee of such Idiot, Lunatic, or Person of unsound Mind, or to the Sequestrator, or to such Curate of such Benefice or Church, as the Case may be; and the Consent of such Committee, Sequestrator, or Curate shall be deemed to be the Consent of the Incumbent.

Where Patrons are numerous. 7 & 8 Vict. c. 94. s. 6.

386. If the Patronage of any Church of any Parish, District, or Place is or shall be vested in and exercised by the Inhabitants generally of such Parish, District, or Place, or by any Body or Class of Persons exceeding *Five* in Number, it shall be sufficient to deliver or transmit the Draft of any such Scheme or give such Notice to One of such Patrons, and to the Churchwardens of any such Church; and such Churchwardens, or One of them, shall thereupon cause Notice of the Contents of such Draft or Notice to be given to such Patrons, and shall ascertain their Objections, if any, or their Consent to such Scheme, in such Manner as the Commissioners shall direct, and such Churchwardens, or One of them shall communicate the same to the Commissioners or to the Bishop; and the Commissioners shall not lay such Scheme before Her Majesty in Council until after the Expiration of *Two* Months from the Day on which such Draft shall have been so delivered or transmitted, unless such Consent shall in the meantime be given.

PART XVI.

Provisions respecting Money borrowed of the Governors of the Bounty of Queen Anne.

Bounty Board may lend Money to the Ecclesiastical Commissioners. 6 & 7 Vict. c. 37. s. 2.

387. The Commissioners from Time to Time may borrow, and the Governors of the Bounty of Queen Anne and the Archbishop of Canterbury may lend and transfer to the Commissioners, upon the Security and Conditions herein-after mentioned, any Capital Sums of Stock, being Part of the Stock now standing in the Names of the Governors and such Archbishop in the Books of the Governor and Company of the Bank of England.

Commissioners to pay Interest

388. The Commissioners shall, upon the Transfer of any such Stock into their Names in the Books of the Governor and Company of the

the Bank of England, accept the same in such Books, and shall pay to the Governors, by half-yearly Payments on the Tenth Day of April and the Fourteenth Day of October in every Year, a Sum equal in Amount to the Amount of the Dividends which such Stock, or so much thereof as shall on such Days respectively remain unreplaced, would produce; and the Commissioners may, at any Time, replace the whole or any Part of any such Sum of Stock, or of any Stock already lent and transferred to them under the Provisions of an Act passed in the Session of Parliament held in the Sixth and Seventh Years of the Queen, Chapter Thirty-seven.

half-yearly on Money borrowed from Bounty Board. 6 & 7 Vict. c. 37. s. 3.

389. The Money from Time to Time accruing to the Commissioners by reason of the Suspension of Canonries under an Act passed in the Session of Parliament held in the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and of an Act passed in the Session of Parliament held in the Fourth and Fifth Years of the Queen, Chapter Thirty-nine, and the Land and Property vested or to be vested in the Commissioners under such Acts, and also any Money borrowed by the Commissioners from the Governors under this Act, and the Rents and Profits thereof respectively, are hereby charged with all such half-yearly Payments as are made payable by the Act of the Sixth and Seventh Years of the Queen, or by this Act.

The Property of the Commissioners under the Cathedral Acts (3 & 4 Vict. c. 113. 4 & 5 Vict. c. 39.), and Money borrowed from the Governors, to be the Security for Payment of Interest, 6 & 7 Vict. c. 37. s. 4.

390. If any such half-yearly Payment, or any Part thereof, shall be in arrear for *Twenty* Days, then the Land, Property, and Money accruing or borrowed as aforesaid, and the Rents and Profits thereof respectively, are hereby charged with the Repayment and replacing of the whole Capital Stock so to be lent and transferred to the Commissioners, or already lent and transferred to them.

Same Security for the Payment of Capital upon Default of the Payment of Interest.

391. Upon any such Default the Governors shall have the same Remedies at Law against the Commissioners, upon and over such Money, Land, or Property in their Possession or Power, under the Provisions of the Acts of the Third and Fourth of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth of the Queen, Chapter Thirty-nine, for the Recovery of such Capital Stock, or so much thereof as shall then remain unreplaced, together with all Arrears of half-yearly Payments due thereon, as if the Commissioners had duly executed a Deed under their Common Seal covenanting for Repayment to the Governors of such Stock and for making such half-yearly Payment on the Day when such Default shall have become complete; and such Transfer and Acceptance shall be sufficient Evidence of such Covenant.

Remedies for Nonpayment of Interest.

Bounty Board may require Repayment of Capital after Thirty Years. 6 & 7 Vict. c. 37. s. 5.

392. The Governors, at or after the Expiration of *Thirty* Years from the Date of the lending and transferring of any Sum of Stock already lent and transferred as aforesaid, and at or after the Expiration of a like Number of Years from and after the lending and transferring of any further Sum of such Stock under this Act, may give Notice to the Commissioners, in Writing under their Corporate Seal, requiring them to replace, in the Names of the Governors and of the Archbishop of Canterbury, the whole of such Sums of Stock respectively, or such Part thereof respectively as shall at the Date of such Notice remain unreplaced. And the Commissioners shall proceed to replace the same accordingly, by yearly Instalments, amounting at the least to *One Twelfth* Part of such Sums of Stock respectively, or of such remaining Part thereof, and upon default of their duly replacing any such Instalment the Governors shall have the like Remedies for recovering the same as for any Default in making any such half-yearly Payment.

Commissioners to have Rights of Ownership over the Lands, &c. vested in them under the Cathedral Acts. 6 & 7 Vict. c. 37. s. 6.

393. Notwithstanding the Charge by this Act created, all the Rights and Powers of Ownership as are possessed respecting and over any Land or Property by any absolute Owner thereof shall be enjoyed by the Commissioners over any Land or Property vested and liable to be vested in them under the Provisions of the Acts of the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth Years of the Queen, Chapter Forty-nine, and may, subject to such Acts and this Act, be exercised by them, by valid Instruments, but in the Case of any such Land or Property not actually in their Possession, with the Consent of the respective Holders thereof, testified by their being made Parties to such Instruments; and the Consent of the Governors shall not be required to the Exercise by the Commissioners of any such Rights and Powers, notwithstanding such Charge.

Application of Purchase Money. 6 & 7 Vict. c. 37. s. 6.

394. Money received as the Consideration or Purchase Money for the Sale, Transfer, or Conveyance by the Commissioners of such Land or Property, or of any Estate or Interest therein, and also Money received by them as the Foregift or Fine for the granting or renewing of any Lease, shall, unless it be deemed expedient by the Commissioners to apply any such Sum or any Part thereof in replacing any Stock so lent and transferred or to be lent and transferred as aforesaid, which they are hereby empowered to do, be applied by them, so soon as conveniently may be after the Receipt thereof, in the Purchase of Lands, Tithes, Rentcharges, Tenements, or other Hereditaments, or of some Estate or Interest therein, and shall in the meantime be invested in some Government or Parliamentary Stock or other Public Securities in England,

England, the Commissioners being at liberty to apply the Interest and Dividends of such Stock or Securities, and the Rents and Profits of such Lands, Rentcharges, Tithes, Tenements, and other Hereditaments, to the Purposes of the lastly herein-before mentioned Acts or of this Act.

Commissioners to have full Power over Stock lent and transferred to them by the Governors. 6 & 7 Vict. c. 37. s. 7.

395. The Commissioners shall, for the Purposes and subject to the Provisions of the lastly herein-before mentioned Acts and of this Act, have Right of Property over all the Stock so lent and transferred to them by the Governors.

Stock not to be used, nor Lands sold, without Approval of Her Majesty in Council. 6 & 7 Vict. c. 37. s. 8.

396. No Part of the Capital of such Stock shall be applied to such Purposes, nor shall any such Land or Property be sold, transferred, or conveyed, except by the Authority of a Scheme prepared by the Commissioners, and an Order issued by Her Majesty in Council ratifying such Scheme.

PART XVII.

Miscellaneous Clauses; and Saving of prior Rights.

Reservation of Ecclesiastical Jurisdiction. 58 G. 3. c. 45. ss. 84, 85. 3 G. 4. c. 72. ss. 36, 37. 2 & 3 W. 4. c. 61. s. 1.

397. Nothing in this Act contained shall, otherwise than is expressly provided, extend to invalidate or avoid any of the Laws Ecclesiastical or Constitutions of the United Church, or to affect or destroy any of the Rights or Powers belonging to any Bishop, Archdeacon, Chancellor, or Official, but they respectively, unless it be otherwise expressly provided, may at all Times hereafter visit, institute, and exercise Ecclesiastical Jurisdiction in any Parish, District, or Place, and the Church thereof, as amply and in such Manner as they respectively might have done before the passing of this Act.

The Validity of Marriages performed in Error in Churches with Parishes or Districts assigned to them not to be questioned, except where Proceedings are pending at the passing of this Act. 7 & 8 Vict. c. 56. s. 3. 14 & 15 Vict. c. 97. s. 25.

398. If by error and without fraud Banns of Matrimony or Marriages have been, before the passing of this Act, published or solemnized, in any Church or in any Building licensed for Divine Service according to the Use of the United Church wherein Banns could not legally be published or Marriages legally solemnized, or in any Church which or the Chancel of which shall have been rebuilt without being reconsecrated; or if in any Case Banns of Matrimony or Marriages have been, before the passing of this Act, published or solemnized, in any Church which was not the Church of the Parish, District, or Place in which the Parties or either of them resided, such Banns of Matrimony and such Marriages shall not, except where any such Marriage has been by a Court of competent Jurisdiction declared invalid, or any Proceeding is now pending respecting the Validity or Invalidity thereof, be questioned on account of such Banns having been published or such Marriages solemnized in any such Church or Building as aforesaid.

Ministers who solemnized such Marriages released from Penalties.

399. The Ministers who solemnized such Marriages shall not be liable to any Ecclesiastical Censure or to any other Proceedings or Penalties by reason thereof; and the Registers of all Marriages so solemnized, except as aforesaid, or Copies of such Registers, shall be received in all Courts of Law and Equity as Evidence of such Marriages respectively.

Registers of such Marriages to be received as Evidence. 7 & 8 Vict. c. 56. s. 3. 14 & 15 Vict. c. 97. s. 25.

Rights or Liabilities. 19 & 20 Vict. c. 104. s. 29.

400. Except as herein provided, nothing in this Act contained shall affect or alter any existing Rights, Interests, Privileges, or Liabilities, Ecclesiastical or Civil, acquired or incurred under the former Church Building Acts or former New Parishes Acts.

Saving for Acts done and of existing Interests.

401. Orders in Council, Orders by Her Majesty's Commissioners for Building New Churches, Orders by the Commissioners, Deeds, Instruments, Acts, Matters, and Things, made, executed, done, rendered valid or confirmed, Rights acquired, Liabilities incurred, and any Proceedings or Matters in progress under the former Church Building Acts or former New Parishes Acts at the Time when this Act comes into operation, may, subject to the Provisions affecting the same herein contained, be proceeded upon and remain and be put in force in like Manner as if this Act had not been passed.

Existing Rules of Commissioners to continue in force.

402. The Rules and Regulations for the general Proceedings of the Commissioners, and the Regulations drawn up under the former Church Building Acts or New Parishes Acts, and now in force, shall, until the same are rescinded or altered by the Commissioners, remain and be put in force and be applicable for the Purposes of this Act, except so far as any such Rules or Regulations are inconsistent therewith.

Division of or Separation from a Parish, &c. not to affect certain Parochial Rights. 58 G. 3. c. 45. s. 31.

403. The dividing of any Parish, District, or Place, or the Separation therefrom of any Part thereof, under the former Church Building Acts, the former New Parishes Acts, or this Act, shall not affect such Parish, District, or Place, or the Persons residing therein, save as in the said former Acts and this Act is specially provided, or in any Manner apply to any Poor or other Parochial Rates which may be raised in the Parish, District, or Place so divided, or to the Maintenance or Relief of the Poor, or the holding of Vestries, or the Appointment or Powers of Parish Officers for Civil Purposes.

Saving of the Manchester Division Act, 1850. 14 & 15 Vict. c. 97. s. 22. 19 & 20 Vict. c. 104. s. 29.

404. Nothing herein contained shall alter the Provisions of "The Parish of Manchester Division Act, 1850," or affect the existing Rights of the Principal and Scholars of the King's Hall and College of Brazen Nose in the University of Oxford, and their Successors, to nominate and present from Time to Time fit Clerks to

to officiate in Churches within the Parish of Stebunheath otherwise called Stepney in the County of Middlesex.

Rights of Brazen Nose College preserved. 58 G. 3. c. 45. s. 69.

405. Every Assignment under this Act of any Stipend or Salary to the Minister or Clerk of any Church, and every Endowment under this Act, and every Apportionment, except as herein-before provided, of Glebe Lands, Tithes, Moduses, and other Endowments and Emoluments, and of any Fees, Oblations, Offerings, or other Ecclesiastical Dues or Profits, and also of all permanent and other Charges made under this Act, and all Tables of Fees made under this Act, shall be registered in the Registry of the Diocese.

Apportionments of Glebe and Emoluments, and of Charges, to be registered in the Registry of the Diocese. 58 G. 3. c. 45. s. 72. 59 G. 3. c. 134. ss. 18, 28.

406. No Action or Suit shall be commenced against any Body or Person for anything done in pursuance of this Act, until *Fourteen* Days Notice thereof in Writing has been been given to the Secretary for the Time being of the Commissioners, nor after a sufficient Satisfaction or a Tender thereof hath been made to the Party aggrieved, nor after *Six* Months next after the Fact committed.

Limitation of Actions. 58 G. 3. c. 45. s. 83.

Notice to the Secretary of the Commissioners.

407. Such Action shall be brought in the Court of Exchequer in England, and shall be laid in the County of Middlesex, and not elsewhere; and the Defendant in such Action or Suit shall and may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if the same appear to be so done, or if such Action or Suit be brought after the Time herein-before limited for bringing the same, or be brought without *Fourteen* Days Notice thereof, or be brought in any other County or Place, or after a sufficient Satisfaction made or tendered as aforesaid, then the Jury shall find for the Defendant; or if the Plaintiff become nonsuited or suffer a Discontinuance of his Action, or if a Verdict pass against the Plaintiff, the Defendant shall be entitled to have Judgment, with full Costs of Suit.

General Issue.

SCHEDULES.

SCHEDULE (A.)

ACTS WHOLLY OR PARTIALLY REPEALED.

Year and Chapter.	Title.	Extent of Repeal.
43 G. 3. c. 108. -	An Act to promote the building, repairing, or otherwise providing of Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes - -	The whole, so far as it relates to England.
51 G. 3. c. 115. -	An Act for amending the Act Forty-third George the Third to promote the building, repairing, or otherwise providing the Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes.	The whole, so far as it relates to England.
52 G. 3. c. 161 -	An Act for enabling His Majesty to grant Leases under certain Circumstances, and for the better carrying into effect the Provisions of an Act passed in the Thirty-ninth and Fortieth Year of the Reign of His present Majesty, touching the Formation of a Map of the New Forest in the County of Southampton, and continuing and extending other Provisions of the said Act; for further appropriating the Monies arisen or to arise from the Sale of certain Crown Lands under the Authority of divers Acts of Parliament; for annexing certain Lands within the Forest of Rockingham to His Majesty's Manor of King's Cliffe; and for enabling the Commissioners of the Treasury to appropriate small Portions of Land for Ecclesiastical Purposes.	Section 27, so far as it is now in force.
58 G. 3. c. 45. -	An Act for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 14, 15, 56, 58, 59, 60, 61, 65, 66, 68, 70, and 71.
59 G. 3. c. 134. -	An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 5, 14, 23, 24, 25, and 40.
3 G. 4. c. 72. -	An Act to amend and render more effectual Two Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 5, 6, 7, 20, 21, and 26.

Year and Chapter.	Title.	Extent of Repeal.
5 G. 4. c. 103. -	An Act to make further Provision and to amend and render more effectual Three Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, and in the Third Year of His present Majesty, for building and promoting the building of additional Churches in populous Parishes.	The whole.
7 & 8 G. 4. c. 72. -	An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes.	The whole.
10 G. 4. c. 50. -	An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Closes; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney.	Section 45, so far as it relates to England.
1 & 2 W. 4. c. 38. -	An Act to amend and render more effectual an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty, intituled "An Act to amend "the Acts for building and promoting "the building of additional Churches "in populous Parishes."	The whole.
2 & 3 W. 4. c. 61. -	An Act to render more effectual an Act passed in the Fifty-ninth Year of His late Majesty King George the Third, intituled "An Act to amend and render "more effectual an Act passed in the "last Session of Parliament for build- "ing and promoting the building of "additional Churches in populous Pa- "rishes."	The whole.
1 & 2 Vict. c. 107. -	An Act to amend and render more effectual the Church Building Acts.	The whole.
2 & 3 Vict. c. 49. -	An Act to make better Provision for the Assignment of Ecclesiastical Districts to Churches or Chapels augmented by the Governors of the Bounty of Queen Anne; and for other Purposes.	Sections 2, 3, 4, 9, 10, and 11.
3 & 4 Vict. c. 60. -	An Act to further amend the Church Building Acts.	The whole.
7 & 8 Vict. c. 56. -	An Act concerning Banns and Marriages in certain District Churches or Chapels.	The whole.
8 & 9 Vict. c. 70. -	An Act for the further Amendment of the Church Building Acts.	The whole.

Year and Chapter.	Title.	Extent of Repeal.
9 & 10 Vict. c. 68. -	An Act for better enabling the Burial Service to be performed in One Chapel where contiguous Burial Grounds shall have been provided for Two or more Parishes or Places.	The whole.
9 & 10 Vict. c. 88. -	An Act to remove Doubts as to the Legality of certain Assignments of Ecclesiastical Patronage.	The whole.
11 & 12 Vict. c. 37.	An Act to amend the Law relative to the Assignment of Ecclesiastical Districts.	The whole.
14 & 15 Vict. c. 97.	An Act to amend the Church Building Acts.	The whole.
17 & 18 Vict. c. 32.	An Act to facilitate the Apportionment of the Rent when Parts of Lands in Lease are taken for the Purposes of the Church Building Acts.	The whole.
19 & 20 Vict. c. 55.	An Act for transferring the Powers of the Church Building Commissioners to the Ecclesiastical Commissioners for England.	The whole.

SCHEDULE (B.)

Acts wholly or partially repealed.

Year and Chapter.	Title.	Extent of Repeal.
6 & 7 Vict. c. 37. -	An Act to make better Provision for the Spiritual Care of populous Parishes.	The whole.
7 & 8 Vict. c. 94. -	An Act to explain and amend an Act for making better Provision for the Spiritual Care of populous Parishes.	The whole.
13 & 14 Vict. c. 94.	An Act to amend the Acts relating to the Ecclesiastical Commissioners for England.	Section 27.
19 & 20 Vict. c. 104.	An Act to extend the Provisions of an Act of the Sixth and Seventh Years of Her Majesty for making better Provision for the Spiritual Care of populous Parishes, and further to provide for the Formation and Endowment of separate and distinct Parishes.	The whole.

Church Building and New Parishes Acts Amendment Bill.

[AS AMENDED BY THE SELECT COMMITTEE.]

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3. *General Provisions as to New Churches.*

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SCHEDULE.

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEE]

TO

Consolidate and amend the Church Building and New Parishes Acts.

WHEREAS it is expedient to consolidate and amend the principal Provisions of certain Acts that have been passed for promoting the building of additional Churches in England, and for other Purposes connected therewith; and to consolidate and amend the New Parishes Acts, of 1843, 1844, and 1856: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

PART I.

Preliminary.

1. This Act may be cited as "The Church Building and New Parishes Act, 1863." Short Title of Act.

2. This Act shall come into operation on the *First Day of November One thousand eight hundred and sixty-three.* Commencement of Act.

3. This Act shall extend only to that Part of the United Kingdom called England, and to the Isle of Man. Extent of Act.

Repeal of the Church Building and New Parishes Acts.

4. From and after the *Commencement of this Act* the Acts mentioned in the Schedules (A.) and (B.) to this Act shall be repealed to the Extent mentioned in such Schedules, except as to Acts done, Proceedings had, and Rights acquired by virtue thereof before the passing of this Act, but such Repeal shall not be construed in any way to affect or impede the Operation of the Parts of such Acts not repealed, and such Parts shall be construed with their Context, and shall take effect in like Manner as if this Act had not passed.

Interpretation of certain Terms in this Act.

5. In the Construction of this Act the following Words and Expressions shall, if not inconsistent with the Context, have the Meanings hereto assigned to them; that is to say, the Word

"Acre:" "Acre" shall mean Statute Acre:

"Bishop:" "Bishop" shall mean Bishop of the Diocese for the Time being, and shall comprehend Archbishop:

"Body" or "Person:" "Body or Person" shall include any Body Politic, Corporate, or Collegiate, whether aggregate or sole, any public Company, as well as One or more Individuals, their Heirs, Successors, Executors, Administrators, and Assigns:

"Church:" "Church" shall mean and include any consecrated Church or Chapel belonging to the United Church of England and Ireland:

"Churchwarden:" "Churchwarden" shall include "Chapelwardens" or "other Persons discharging Duties of Churchwardens" under this Act:

"Computation of Time:" Where any particular Number of Days is prescribed by this Act for the doing of any Act, or for any other Purpose, the same shall be reckoned, in the Absence of any Expression to the contrary, exclusive of the first and inclusive of the last Day, unless the last Day shall happen to fall on a Sunday, Christmas Day, Good Friday, Monday, and Tuesday in Easter Week, or a Day appointed for a Public Fast or Thanksgiving, in which Case the Time shall be reckoned exclusive of that Day also:

"Diocese:" "Diocese" shall include all Places to which the Jurisdiction of any Bishop extends under and for the Purposes of the Act of the Session holden in the First and Second Years of the Queen, Chapter One hundred and six:

"District Church:" "District Church" shall mean any Church to which a District has been assigned under the former Church Building Acts or New Parishes Acts, or under this Act:

"Division:" "Division," in the Eighth Part of this Act, shall mean any new Parish formed at any Time out of any other Parish or Parishes, under the former Church Building Acts or New Parishes Acts or this Act:

"Former

"Former Church Building Acts" shall mean and include all or any of the Acts mentioned or described in the Schedule (A.) to this Act: "Former Church Building Acts:"

"Former New Parishes Acts" shall mean and include all or any of the Acts mentioned or described in the Schedule (B.) to this Act: "Former New Parishes Acts:"

The Word "Funds" shall mean and include the Public Stocks or Funds of Great Britain, or Government Securities: "Funds:"

The Word "give" or "grant," when applied to any Gift or Grant of Real or Personal Estate by any Body or Person, shall mean the Execution by such Body or Person of every necessary or suitable Act or Assurance for giving or granting any Land or Property whereof or whereto such Person is seised or entitled in possession, remainder, or contingency either for the whole or any less Estate, as the Case may be, of such Body or Person therein, together with the Performance of all Formalities required by Law to the Validity of such Act or Assurance, including the Acts to be performed by married Women and Tenants in Tail in accordance with the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, "and the Substitution of more simple Modes of Assurance," and including also Surrenders and other Acts with a Tenant of Customary or Copyhold Lands can himself perform preparatory to or in aid of a complete Assurance of such Customary or Cophold Lands: "Give" or "grant."

"Her Majesty" shall include the Heirs and Successors of Her Majesty: "Her Majesty:"

"Incumbent" shall mean Rector, Vicar, or Perpetual Curate: "Incumbent:"

"Land" shall include Messuages, Tenements, and Hereditaments of any Tenure, and any Part or Share of an Estate or Interest thereof or therein, unless where there are Words to restrict the Meaning to Tenements or Hereditaments of some particular Tenure: "Land:"

"Lease" and "Underlease" shall mean any Instrument in Writing, whether under Seal or not, containing a Contract of Tenancy in respect of any Lands in consideration of a Rent or Return, and shall include a Contract for a Lease or Underlease: "Lease" and "Underlease:"

"New Parish" shall include any distinct and separate Parish formed under the former Church Building Acts or the former New Parishes Acts or this Act; any District Parish formed under the former Church Building Acts; any District which has become a new Parish under the former New Parishes Acts, or shall become a new Parish under this Act; and also any Chapelry, Township or District, endowed or erected into a separate Parish, under the former Church Building Acts or this Act: "New Parish:"

"Offices of the Church:" "Offices of the Church" shall mean and include the Administration of the Sacrament of Baptism, Publication of the Banns of Matrimony, and the Solemnization and Performance of Marriages, Churchings, and Burials:

"Parish:" "Parish" shall include every Place which has exclusive Parochial Rights and Privileges in all Matters Ecclesiastical, and is liable to all Parochial Charges:

"Parish, District, or Place:" "Parish, District, or Place" shall include any Parish, Ancient or Reputed Chapelry, or Extra-parochial Place, and also any distinct and separate Parish, District Parish, District Chapelry, Consolidated Chapelry, particular District, separate parochial District, with or without a specified Church, and any new Parish, whether formed or constituted under the former Church Building Acts, the former New Parishes Acts, or this Act; and shall also include any Parish, District, or Place, or Part or Parts thereof, united for Ecclesiastical Purposes with any other Parish, District or Place:

"Property:" "Property" shall include every Description of Real and Personal Property, Goods, Money, Debts, and Legacies, and all Deeds and Instruments relating to or evidencing the Title or Right to any Property, or giving a Right to recover or receive any Money or Goods; and such Word "Property" shall also denote and include not only such Real and Personal Property as may have been the original Subject of a Trust, but also any Real or Personal Property into which the same may have been converted or exchanged, and the Proceeds thereof respectively, and anything acquired by such Proceeds:

"Spiritual Person:" "Spiritual Person" shall be taken to include Archbishop, Bishop, Dean, Rector, Vicar Impropriate, Perpetual Curate, Curate, Clerk in Holy Orders, and every Ecclesiastical Corporation, whether Aggregate or Sole:

"The accustomed Fees:" "The accustomed Fees" shall mean and include the accustomed Fees, Dues, Oblations, Offerings, Mortuaries, or other Profits and Emoluments belonging to the Office of Incumbent, or incident to the Cure of Souls within any Parish, District, or Place:

"The Commissioners:" "The Commissioners" shall mean "the Ecclesiastical Commissioners for England";

"The Governors:" "The Governors" shall mean "the Governor of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy:"

"Tithe:" "Tithes" shall mean and include all commuted or uncommuted Tithes, Rentcharges in lieu of Tithes, Portions and Parcels of Tithes,

Tithes, and all Moduses, Compositions Real, and prescriptive and customary Payments:

"United Church" shall mean the "United Church of England and Ireland:" — "United Church:"

"Vestry" shall mean "Meetings of Persons in any Parish, District, or Place possessing the Powers of Vestry in Ecclesiastical Matters," or in an Extra-parochial Place, or in a District having no Churchwardens, "the Persons who, if the same was a Parish, would be entitled to vote in Vestry in Ecclesiastical Matters:" — "Vestry:"

"Will" shall mean and comprehend any Will or Testamentary Paper, including under such Definition the Execution by any such Will, Testament, or Testamentary Paper, of any Appointment in pursuance of any Power. — "Will."

PART II.

Building of New Churches.

1. *Churches built and endowed by private Founders or Subscribers.*

Any Body or Person may endow a Church, 1 & 2 W. 4. c. 38. s. 5. 14 & 15 Vict. c. 97. ss. 7. 15. 1 & 2 Vict. c. 107. s. 5.

6. Any Body or Person may, subject to the Restrictions hereinafter contained, build, endow, and acquire in perpetuity the Patronage of a Church in any Parish, District, or Place.

With Consent of Bishop, Commissioners may, subject to Notices to the Patrons and Incumbent, declare perpetual Right of Patronage to be in the Body or Person building and endowing a new Church. 1 & 2 W. 4. c. 38. s. 5. 1 & 2 Vict. c. 107. s. 5. 14 & 15. Vict. c. 97. ss. 7. 15.

7. If any Body or Person, either with the Sanction of the Commissioners or to their Satisfaction, shall have endowed or shall endow any Church or any Building intended to be consecrated as a Church (which Building is herein-after included in the Word Church), already or hereafter to be built, purchased, or otherwise acquired by such Body or Person, and shall provide a competent Fund for the Repairs of such Church, the Commissioners may, with the Consent of the Bishop, signify in Writing their Intention of declaring that the Right of nominating a Minister to such Church or to such Building, after the Consecration thereof, shall be for ever in the Body or Person so having built, purchased, or acquired the same, or in such Nominees or Trustees as is herein-after provided.

Nature of Application to the Commissioners.

8. Application in Writing shall be made by any Body or Person having built, purchased, or acquired, or proposing to build, purchase, or acquire, such Church, either for themselves or their Nominees, or, in case of a Church built, purchased, or acquired, or proposed to be built, purchased, or acquired, by Subscription, by the major Part in Value of the Subscribers thereto of not less than *Fifty Pounds* each, or by some Person authorized on his or their Behalf respectively, to the Commissioners, setting forth the estimated Amount of the Population

14 & 15 Vict. c. 97. ss. 11. 29.

lation of the Parish, District, or Place in which such Church is or is proposed to be built, the estimated Amount of Accommodation provided in the several consecrated Churches within such Parish, District, or Place, and the estimated Amount of the Population of the District (if any District be proposed) for which such Church is intended to provide, and the Accommodation provided or proposed to be provided in such Church, and its Distance from the consecrated Churches in such Parish, District, or Place.

Copies of Application to be sent by the Commissioners to Patron and Incumbent.

14 & 15 Vict. c. 97. ss. 11. 29.

9. Copies of such Application, or Notices containing the like Information, shall in every such Case be sent by the Commissioners to the Patron and Incumbent respectively of such Parish, District, or Place, or of any Parish, District, or Place out of which any Part of the District, if any, proposed to be assigned for such Church, is to be taken, in order to afford such Patrons and Incumbents respectively the Opportunity of laying before the Commissioners, for their Consideration, any Statement or Objections relating thereto; and such Copies or Notices may be served personally on or directed and sent by Post to such Parties respectively.

Time allowed to Patron and Incumbent to give Consent.

14 & 15 Vict. c. 97. ss. 11. 29.

10. The Commissioners shall not declare, or signify their Intention of declaring, such Right of Nomination until the Expiration of *Three* Months next after such Copies or Notices have been so sent, unless in the meantime such Patron and Incumbent, or, as the Case may require, each such Patron and Incumbent consent thereto.

District proposed may be varied.

14 & 15 Vict. c. 97. ss. 11. 29.

11. The District, if any, proposed in such Application to be assigned to such Church may be subsequently varied, with the Consent of such Patron and Incumbent, or each such Patron and Incumbent, at any Time before the Consecration of such Church or Assignment of such District, without any fresh Copies of Application or Notices being required to be served on or sent to such Parties respectively.

Certain Notices may be served on Patron alone if there be no Incumbent.

1 & 2 Vict. c. 107. s. 2.

12. Where such Notices are required to be sent to or served upon the Patron or Incumbent, a Notice to the Patron shall be sufficient in those Cases where, at the Time such Notices are required to be sent or served, there shall be no Incumbent of the Parish, District, or Place in which such Church is built or proposed to be built and endowed, and such Parish, District, or Place shall have remained without an Incumbent for the Space of *Twelve* Months.

How Notices shall be sent when Patrons are numerous.

13. If the Patronage of any such Parish, District, or Place be vested in and exercised by the Inhabitants generally of such Parish, District, or Place, or by any Body or Class of Persons exceeding Five in Number, it shall be sufficient to deliver or send such

such Copies of Applications or Notices to the Churchwardens of such Parish, District, or Place, and to Two or more of such Patrons, and such Two Patrons shall for the Purposes of this Act be the Patrons of such Parish, District, or Place. 14 & 15 Vict. c. 97. s. 12.

If no Incumbent in an Extra-parochial Place, Notice to Bishop sufficient.

14. If such Church has been or is proposed to be built and endowed in any Extra-parochial Place where there is no Incumbent it shall be sufficient to deliver such Copies of Application or Notices to the Bishop alone.

3 & 4 Vict. c. 60. s. 16. Preference to be given to Patron binding himself to build and endow to the Satisfaction of the Commissioners and Bishop. 1 & 2 W. 4. c. 38. s. 7. 14 & 15 Vict. c. 97. ss. 7. 15. 19.

15. If any Body or Person who may be the Patron of the Parish, District, or Place in which it is proposed to build, purchase, or acquire such Church shall, within *Two* Months after such Notice shall have been served or sent as herein-before mentioned, bind himself by a sufficient Security to the Commissioners that he will to the Satisfaction of the Bishop, within *Two* Years thereafter, build or purchase, and finish and endow, an additional Church in such Parish, District, or Place, and provide a competent Fund for the Repairs of such Church, then such Body or Person shall be preferred to any other Body or Person so intending to build, purchase, or acquire such additional Church.

Endowments to be vested in Commissioners or Trustees. 14 & 15 Vict. c. 97. s. 8.

16. The Endowments provided for any Church, the Patronage whereof is vested under this Act in the Body or Person building, purchasing, or acquiring and endowing the same, or in their Nominees, or for the Repair Fund thereof, whether a particular District is assigned to such Church or not, may be vested in the Commissioners, or in such Trustees, not exceeding *Five*, as the Commissioners direct.

Nature of Endowment. 3 & 4 Vict. c. 60. ss. 2. 15. 14 & 15 Vict c. 97. s. 8.

17. Such Endowment, either for the Church or the Repair Fund, shall be of a permanent Character, consisting of all or any of the following Descriptions of Property, namely, Land, Tithes, Rent-charges, and other Tenements or Hereditaments, Money charged on Land or invested in the Public Stocks or Funds of Great Britain, or upon Government Securities, or of Money to be laid out in Lands or other Hereditaments; and such Endowment and Repair Fund shall be exclusive of and in addition to the Pew Rents (if any) of such Church, and shall be valid notwithstanding the Statutes of Mortmain.

Additional Endowments may be made. 3 & 4 Vict. c. 60. s. 17.

18. An additional permanent Endowment of a like Character may at any Time be made, either for such Church or for the Repair Fund, whether a District shall have been assigned to such Church or not.

Commissioners may declare

19. Trusts may be declared as the Commissioners may think fit in repect of such Endowment and Repair Fund, and for the Sale or Conversion

Trusts of Endowment and Repair Fund. 14 & 15 Vict. c. 97. s. 8.

Conversion thereof, and Re-investment of the Produce either in Land or in Government Securities, with Powers of granting Building or other Leases, and all other Powers for the due Administration of such Endowment and Repair Fund, and Powers for the Appointment of new Trustees.

Nomination may be vested in the Body or Person building or endowing. 1 & 2 W. 4. c. 38 s. 19. 3 & 4 Vict. c. 60. s. 9. 14 & 15 Vict. c. 97. s. 9.

20. After the Church so built, purchased, or acquired has been finished and fitted up for the Performance of Divine Service, and endowed, the Commissioners may, by an Instrument under their Common Seal, the Bishop being a consenting Party thereto, declare the Right of perpetual Nomination to such Church to be vested in the Body or Person so having built, purchased, or acquired and endowed the same, or in their or his Nominee, or such Trustees to be named in such Instrument as may be signified to the Commissioners before the Execution of such Instrument by the Commissioners.

Where Nomination is to be in Trustees to be named by Subscribers. 3 & 4 Vict. c. 60. s. 11. 14 & 15 Vict. c. 97. s. 9.

21. Where such Church has been built, or purchased, and endowed by Subscription, then such Right of perpetual Nomination may be vested in such Body or Person, or such Trustees to be named in such Instrument, as the major Part in Value of the Subscribers of not less than *Fifty Pounds* each may signify to the Commissioners.

After Execution of such Instrument, and Consecration, Right of Patronage may be exercised. 1 & 2 W. 4. c. 38 s. 9. 14 & 15 Vict. c. 97. s. 13.

22. After the due Execution of such Instrument, and the Consecration of such Church, such Right of Nomination may be exercised by the Body or Person in whom the same may be vested, without requiring the Consent either of the Patron or the Incumbent of the Parish, District, or Place in which such Church is situate, notwithstanding that Compensation has not been made to them, or that any Local Act of Parliament may have specially reserved such Right of Nomination, and such Body or Person shall be the Patrons of such Church by the Name and Style specified in the Sentence of Consecration; and such Right of Nomination shall be of the Nature of Real Property.

How Right of Nomination may be exercised when vested in more than Two Persons. 1 & 2 W. 4. c. 38. s. 9. 14 & 15 Vict. c. 97. s. 13.

Trustees not to exceed Five in Number. 14 & 15 Vict. c. 97. s. 10.

23. Such Right of Nomination, when vested in more than *Two* Persons, shall in every such Case be exercised by the Majority, unless otherwise particularly specified and agreed upon; but such Right of Nomination shall not at any Time be vested in or held in trust by more than *Five* Persons, except where such Patronage passes by Descent to Coparceners, or by the Custom of Gavelkind to more than *Five* Persons.

Land and Site to vest in Patrons.

24. The Land and Site whereon such Church shall be built, with the Cemetery thereto belonging, if any, shall be specified in the Sentence

Sentence of Consecration, and shall, until the Church becomes the Church of a new Parish, vest in such Patrons by the Name and Style aforesaid.

1 & 2 W. 4. c. 38. s. 9. 19 & 20 Vict. c. 104. s. 10.

After Instrument of Nomination has been executed and registered Three Years the Validity thereof not to be questioned. 1 & 2 W. 4. c. 38. s. 19. 1 & 2 Vict. c. 107. s. 11.

25. Every such Instrument of Nomination shall be registered in the Registry of the Diocese, and after it has been so registered for *Three* Years the same shall be admitted in all Courts as conclusive Evidence that every Matter required to be done previous to the Declaration of Such Right of Nomination has been performed.

New Trustees to be appointed by continuing Trustees or according to Agreement. 3 & 4 Vict. c. 60. ss. 11. 13. 14 & 15 Vict. c. 97. s. 10.

26. If any Trustee to whom the Right of Nomination to any such Church is in the first instance granted under such Instrument die, resign, or become incapable of acting, or unwilling to act, or be desirous of retiring from such Trust, the surviving or continuing Trustees, or the Majority of them, shall appoint a new Trustee in the Place of the Trustee so dying, resigning, or becoming incapable, or unwilling to act, unless a different Mode of electing or Power of nominating new Trustees have been agreed upon in the first instance between the Commissioners and the Body or Person building, purchasing, or acquiring, and endowing such Church, or if the same be erected or purchased and endowed by Subscription, between the Commissioners and the major Part in Value of the Subscribers thereto of not less than *Fifty Pounds* each.

Agreement to be sealed by the Commissioners. 14 & 15 Vict. c. 97. s. 10.

27. Such Agreement shall be signed by such Body or Person, or by the Majority in Value of such Subscribers, and sealed by the Commissioners, and in each such Case such new Trustee shall be appointed in conformity to such Agreement.

Trustees to be Members of the United Church. 14 & 15 Vict. c. 97. s. 10.

28. Every Trustee on his Nomination, and also so often as he exercises or concurs in exercising the Right of Nomination of which he is a Trustee, shall sign a Declaration that he is a Member of the United Church.

No Conveyance to the new Trustees necessary. 14 & 15 Vict. c. 97. s. 10.

29. On the Appointment of a Trustee it shall not be necessary to make any Conveyance of the Right of Nomination to such Church, but such Right of Nomination shall vest in the new Trustee jointly with the surviving or continuing Trustees or Trustee, or solely, as Occasion may require, without such Conveyance.

Continuing Trustees may act. 14 & 15 Vict. c. 97. s. 10.

30. When any Trustee or Trustees may have died, resigned, or become incapable of acting, or unwilling to act, the surviving or continuing Trustee or Trustees may continue to act, notwithstanding a new Trustee may not have been appointed, unless the contrary shall have been directed in any such Agreement.

When Bishop may appoint Trustees. 14 & 15 Vict. c. 97. s. 10.

31. When the Right of appointing new Trustees is vested in a surviving or continuing Trustee for the Time being who is incapable of acting or unwilling to act, or if there be no surviving or continuing Trustee, the Bishop in each such Case may, under his Hand and Seal, in such Form as he may think fit, appoint any Number of Trustees, not exceeding *Five*.

Form of Appointment of new Trustees.

32. Every Appointment of new Trustees or a new Trustee shall be made by an unstamped Instrument in Writing under the Hand or Seal or Hand and Seal of the Person or Corporation making the same, or of the Bishop (as the Case may be); and the same may be in the Form or to the Effect following:

'I *A.B.* of do by virtue of the Church Building
' and New Parishes Act, 1863, appoint *C.D.* of
' to be a new Trustee of the Right of Nomination to the Church
' of in the Parish of in the Place of
' *E.F.* deceased [*or* resigned, *or* who is become incapable of acting,
' *or* unwilling to act, *or* desirous of retiring from the Trust, *as the*
' *Case may be*].

And every such Appointment shall be primâ facie Evidence in all Courts that the former Trustee therein named was at the Date thereof dead, or had resigned, or had otherwise ceased to be a Trustee entitled to such Right of Nomination.

Churchwardens to be appointed, whether a Particular District be assigned to the Church or not. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. s. 7.

33. *Two* fit and proper Persons shall be appointed to act as Churchwardens for such Church, in the Manner herein-after provided, until such Church shall become the Church of a new Parish, or of a District Chapelry, after which Time (if the same shall happen) Churchwardens shall be appointed thereto in the same Manner as for other Parishes and District Chapelries respectively, and the Persons so appointed Churchwardens, together with the Minister, shall have the Disposal of the Monies collected at the Offertory of such Church.

Time of Appointment of Churchwardens. 1 & 2 W. 4. c. 38. s. 16.

34. The First Appointment of such Persons shall take place within *Two Months* after the Consecration of such Church, and the next Appointment of such Officers shall take place at the usual Period of appointing Parish Officers in every Year, and they shall be chosen, One by the Minister of the Church for the Time being and the other by the Renters of Pews in such Church, if any, or otherwise by the Body or Persons having the Patronage of such Church.

Duties of Churchwardens. Collection

35. Such Persons, when so elected Churchwardens, shall appear and be admitted and be sworn according to Law, and in addition to the general Duties herein-after provided for Churchwardens, shall collect,

collect, receive, and appropriate the Rents (if any) of the Pews and Seats, and pay over the Residue thereof which shall remain after paying the Salaries, if any, which may have been fixed by the Commissioners, and other Expenses incident to the Performance of Divine Service, to such Minister for his own Use, by way of Stipend, in addition to the yearly Interest and Dividends which shall arise from the Endowment belonging to such Church; and every Person so to be appointed and chosen Churchwarden shall continue in his said Office until another shall be appointed and admitted in like Manner in his Stead.

and Application of Pew Rents, &c. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. s. 7.

36. The Commissioners, if they think fit, may order that such Church shall be either subject to the Provisions herein-after contained in Part XII. of this Act, relative to the Apportionment of Accommodation in Pews, Seats, and Free Seats, and to Pew Rents in Churches, for which the Commissioners shall fix a Scale of Pew Rents, or, if they think fit, may order that the Pews or Seats in such Church shall be let by the Churchwardens, or by some Person appointed in that Behalf by the Body or Person having the Patronage of such Church, according to a Scale of Pew Rents fixed by such Body or Person, and approved by the Bishop, which Scale it shall be lawful for such Body or Person, with Consent of the Bishop, to alter from Time to Time: Provided, that in case at any Time such Church shall be made a District Church the same shall thenceforth become and be subject to the Provisions herein-after contained in Part XII. of this Act relative to the Matters aforesaid.

Regulations as to letting of Pews and Appropriation of Pew Rents. 1 & 2 W. 4. c. 38. ss. 4. 22.

2. *Chapels of Ease.*

37. Nothing in this Act shall prevent the Erection or Consecration of any Parochial Chapel of Ease (not being a Church erected under the Provisions of any of the former Church Building Acts), in the same Manner and by the same Authority as would have been lawful if this Act had not passed.

Erection of Parochial Chapels of Ease.

38. If the Commissioners shall, under the Powers herein-after contained, authorize a Scale of Pew Rents to be taken for the Pews or Seats in any Portion of any Chapel of Ease or District to which a District shall not have been assigned, it shall be lawful for the Incumbent of the Parish to which such Chapel of Ease may belong to provide for the Services of such Chapel, by himself and his Curates, in the same Manner as if such Scale of Pew Rents had not been authorized: Provided always, that such Incumbent shall nominate One Curate to be licensed by the Bishop as and for the Curate (or, if he shall think fit, to employ the Services of more than One Curate therein,

Nomination of Curates to Chapels of Ease.

therein, as and for the senior Curate,) of such Chapel of Ease; and the Curate so nominated shall, in the Absence of the Incumbent be deemed to be the Officiating Minister of such Chapel; but every Curate so nominated shall hold his Office by the same Title and Tenure only, and shall be subject to the same Control and Authority of the Incumbent of the Parish or District, both with respect to the Services of such Chapel and to the Discharge of Pastoral Duties in the Parish or District generally, and otherwise in all respects as any other Stipendiary Curate duly appointed by such Incumbent and licensed by the Bishop.

Application of Pew Rents by the Commissioners.

39. The Commissioners, out of the Proceeds of any Pew Rents authorized by them to be taken in any such Chapel of Ease, may assign such Stipend as they, with the Concurrence of the Bishop, shall think fit, for the Curate to be so nominated and licensed; and the Commissioners may direct that the Residue of the Proceeds of such Rents shall be applied in paying a proper Salary to a Clerk to be appointed and to be removable by the Incumbent of the Parish or District, and in providing for the annual Expenses of and incident to the Service of such Chapel, and for the Repairs thereof; and subject thereto, if there shall remain any Surplus of such Pew Rents, and if it shall appear to the Commissioners and to the Bishop that it is expedient, such Surplus may be applied in augmentation of the Income and Emolument of the Incumbent of the Parish or District.

Appointment of Churchdens to Chapels of Ease.

40. Churchwardens shall be appointed for every Chapel of Ease in which a Scale of Pew Rents shall be so authorized as aforesaid, in the same Manner and for the same Purposes in all respects as is herein-before provided with respect to Churches built and endowed by private Founders and Subscribers, to which no District shall have been assigned.

Chapels or Churches in certain Cases declared to be Chapels of Ease.

41. Every Chapel or Church without a District, in which Pew Rents may now lawfully be taken under any Order of the Commissioners heretofore made, and which is, or but for the Order authorizing such Pew Rents would have been, a Chapel of Ease to the Mother Church of the Parish in which the same is situate, and which is served by a Spiritual Person nominated by the Incumbent of such Parish or District Chapelry, may, upon the Request of such Incumbent, and by the Order of the Bishop under his Hand and Seal, be declared to be, and the same shall thereupon be and become, subject in all respects to the Provisions of this Act as to Chapels of Ease in which a Scale of Pew Rents has been authorized by the Commissioners; and any Order authorizing such Pew Rents or the Application

cation thereof shall thenceforth have the same Effect as if the same had been made by the Commissioners under this Act: Provided always, that no such Order shall be made so as to affect or prejudice in any respect the Position or Title of any Spiritual Person who may then be lawfully serving or officiating, or entitled to serve or officiate, in such Chapel of Ease, unless such Person shall, by Writing under his Hand, signify his Consent thereto.

Pew Rents to be subject to Power of Commissioners if Chapels of Ease are made District Churches.

42. If any Chapel of Ease in which Pew Rents are authorized to be taken shall at any Time be made a District Church, the same shall thenceforth be subject to the Provisions herein-after contained in Part XII. of this Act relative to the Apportionment of Accommodation in Pews, Seats, and Free Seats, and to Pew Rents in Churches for which the Commissioners shall fix a Scale of Pew Rents.

3. *General Provisions as to new Churches.*

Churches built out of Money granted by the Commissioners to which Districts are not assigned. 58 G. 3. c. 45. s. 21. 59 G. 3. c. 134. s. 7.

43. The Commissioners may build or aid the building of any additional Church in any Parish, District, or Place, without determining whether such Parish, District, or Place, shall be divided or not into separate and distinct Parishes or Districts for Ecclesiastical Purposes under this Act, or whether any such Building shall after the Consecration thereof be deemed a Church or Chapel, or whether the same shall be appropriated to the Accommodation of the Parish at large in which the same is built, or to any particular District or Division thereof.

Agreements before a Church is built or consecrated. 59 G. 3. c. 134. s. 13. 1 & 2 Vict. c. 107. s. 15. 8 & 9 Vict. c. 70. s. 23. 11 & 12 Vict. c. 37. s. 4.

44. Any Agreement in Writing already made or which may be hereafter made between any Bishop, Patron, and Incumbent, purporting to be an Agreement made between such Parties with respect to any new Church before or during the building, or previous to the Consecration thereof, that the Right of Presentation thereto shall, on Consecration, be vested either in perpetuity or otherwise in any Body or Person, shall be valid and effectual for the Purpose of vesting such Patronage according to such Agreement.

PART III.

Formation of Districts.

1. *Particular Districts and District Chapelries.*

How a Particular District may be formed for an endowed

45. The Commissioners shall, except where from special Circumstances they shall deem it not advisable, proceed with all convenient Speed to assign a Particular District to every Church the

Church, and become a District Chapelry. 1 & 2 W. 4. c. 38. s. 10. 14 & 15 Vict. c. 97. ss. 11. 29.

Patronage whereof is vested in perpetuity or for the Time being under this Act in the Body or Person building, purchasing, or acquiring and endowing the same, or in their Nominees, and such District, on the Assignment thereof, shall thenceforth become and be a District Chapelry.

Particular Districts how formed. Consents requisite. 1 & 2 W. 4. c. 38. s. 10.

46. Such Particular District or any Part thereof may be taken out of any Parish, District, or Place, and may be assigned to such Church by the Commissioners under their Common Seal, with the Consent of the Bishop, and the Boundaries thereof may in like Manner from Time to Time be altered by the Addition of any Parts or Part of any Parish, District, or Place, or otherwise.

Boundaries of a District may be altered, subject to certain Notices to Patron and Incumbent. 11 & 12 Vict. c. 37. s. 2.

47. The Commissioners shall cause a Description of the Boundaries of the District so assigned by them to such Church, and every Alteration thereof, to be registered in the Registry of the Diocese, and all such Alterations of Boundaries shall be valid for the Purpose of substituting such altered Boundaries in lieu of the former Boundaries of such Particular District.

A Copy of the proposed Alteration to be forwarded to Patron and Incumbent One Month before such Alterations are carried out. 1 & 2 W. 4. c. 38. s. 11. 11 & 12 Vict. c. 37. s. 2. 14 & 15 Vict. c. 97. ss. 11. 29.

48. Previously to any Assignment of such District, or any Alteration of the Boundaries thereof, being made, a Draft or Copy of the Instrument by which such Assignment or Alteration is proposed to be effected shall be delivered or sent to the Patron and Incumbent of every Parish, District, or Place to be affected by such Assignment or Alteration, in order that such Patron and Incumbent may have an Opportunity of submitting to the Commissioners any Observations or Objections upon or to the proposed District, or any Alteration of the Boundaries thereof; and the Commissioners shall not assign such District or effect such Alteration until after the Expiration of *One Month* after such Draft or Copy has been so delivered or sent, unless every such Patron or Incumbent in the meantime consent to the same.

If Consent of Incumbent be not obtained, Alterations of Boundaries not to be carried out until the then next Avoidance. 11 & 12 Vict. c. 37. s. 2.

49. If the Consent of the Incumbent of any such Parish, District, or Place be not obtained to such Alteration of Boundaries, such Alteration shall not take effect until after the next Avoidance of the Church of such Incumbent.

A perpetual Rentcharge may be accepted by the Incum-

50. A perpetual Rentcharge issuing out of Lands and Hereditaments may be provided for any Church to which a Particular District is assigned, and may be purchased by the Trustees of any Repair Fund provided for such Church, with and out of the same, or may be accepted in lieu of any Repair Fund, and in either Case may be given to and accepted by the Incumbent of such Church, and held

held by him and his Successors for the Purposes for a Repair Fund; and the Trustees of any such Repair Fund may assign and transfer such Rentcharge to such Incumbent or his Successors.

bent for a Repair Fund. 3 & 4 Vict. c. 60. s. 15.

51. The Provisions in this Act as to the Persons to whom Notices are to be sent or to be given previously to the Declaration of the Right of Nomination to the Church to which such Particular District is proposed to be assigned in Cases where Patrons are numerous, or where there has been no Incumbent for *Twelve* Months, or where such Church is proposed to be built in an Extra-parochial Place, shall be applicable to Notices required to be sent before assigning a Particular District, or making any Alteration in the Boundaries thereof.

How Notices to be sent when Patrons numerous, or where there is no Incumbent. 1 & 2 Vict. c. 107. s. 2. 3 & 4 Vict. c. 60. s. 16. 14 & 15 Vict. c. 97. s. 12.

52. A District Chapelry may, also, by a Representation of the Commissioners, and by an Order of Her Majesty in Council ratifying the same, be formed by assigning, either at the same Time or at separate Times, to any Church then already existing, a District out of any Parish, District, or Place, or any Part or Parts of several Parishes, Districts, or Places, or by making an Extra-parochial Place or an ancient or reputed Chapelry a District Chapelry.

How a District Chapelry may be formed in other Cases. 59 G. 3. c. 134. s. 16. 1 & 2 Vict. c. 107. s. 12. 2 & 3 Vict. c. 49. s. 3. 3 & 4 Vict. c. 60. s. 1. 11 & 12 Vict. c. 37. s. 1. 14 & 15 Vict. c. 97. ss. 16. 29.

53. A Copy of the Draft of every such Representation shall, One Month before it is submitted to the Queen in Council, be delivered or transmitted to the Patron and Incumbent of the Church of any Parish, District, or Place out of which it is recommended that such District Chapelry shall be taken, in order that every such Patron and Incumbent may have an Opportunity of making, either to the Commissioners or to the Bishop, any Observations upon or Objections to the Formation of any such District Chapelry.

Notice to Patron and Incumbent of Formation of District Chapelry.

54. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a District Chapelry shall be made with the Consent of the Bishop under his Hand and Seal.

Consents requisite. 58 G. 3. c. 45. s. 21. 59 G. 3. c. 134. s. 16.

55. Every Order in Council for the Formation of a District Chapelry shall take effect from the Date of such Order.

Orders in Council to take effect from their Date. 1 & 2 Vict. c. 107. s. 12.

56. The Church of every District Chapelry shall be a Perpetual Curacy and Benefice, and the Licence thereto shall operate as Institution to any Benefice.

Church to be a Perpetual Curacy or Benefice. 8 & 9 Vict. c. 70. s. 17.

57. The Incumbent of the Church of a District Chapelry shall have exclusive Cure of Souls therein; and shall have perpetual Succession,

Incumbent to have exclusive Cure of Souls.

Capacity to hold Land or Property. 8 & 9 Vict. c. 70. s. 17.

Succession, and be a Body Politic and Corporate, and he and his Successors may receive, take, and hold Land, Property, or Endowments.

When Patronage vested in the Incumbent of the original Parish. 59 G. 3. c. 134. s. 16.

58. The Patronage of the Church of every District Chapelry shall belong to the Incumbent for the Time being of the Parish, out of which such District Chapelry was formed, (and whether or not all or any Part thereof formed Part of any District previously formed,) except where such Patronage is at the Time of the Formation of such District Chapelry legally vested or agreed to be vested in any other Body or Person, in which Case the same shall belong or continue to belong to such Body or Person, as if such District Chapelry had not been formed.

When Patronage belongs to the Bishop. 14 & 15 Vict. c. 97. s. 26.

59. When an Extra-parochial Place has been formed into a District Chapelry the Patronage of the Church thereof, unless vested or agreed to be vested elsewhere, shall belong to the Bishop.

Governors of Queen Anne's Bounty may augment any Church. 2 & 3 Vict. c. 49. s. 3.

60. The Governors of the Bounty of Queen Anne may augment any Church, either before or after a District Chapelry has been formed or assigned thereto, on the same Terms, Conditions, and Regulations as are or may be in force concerning such Augmentation.

Such Church so augmented shall be subject to the Provisions relating to District Chapelries. 2 & 3 Vict. c. 49. s. 4.

61. Such Church so augmented, and to which a District Chapelry shall have been assigned, shall be subject to the Provisions herein contained relating to District Chapelries.

Commissioners and Bishop to determine what Offices are to be performed. 59 G. 3. c. 134. s. 16. 7 & 8 Vict. c. 56. s. 4. 14 & 15 Vict. c. 97. s. 17. 19 & 20 Vict. c. 104. s. 11.

62. The Commissioners, with the Consent of the Bishop, may determine whether all or any of the Offices of the Church shall be performed in the Church of a District Chapelry, and may from Time to Time, with the like Consent, upon the Application of the Incumbent of the District Chapelry by Order under their Common Seal, direct that all or any of the Offices of the Church, not included in the first or any subsequent Orders, shall be thereafter performed in such Church.

Who are to determine the Amount of Fees. 59 G. 3. s. 134. ss. 16, 17. 7 & 8 Vict. c. 56. s. 4. 14 & 15 Vict. c. 97. s. 17.

63. The Commissioners, with the Consent of the Bishop, shall from Time to Time as the Offices of the Church are directed to be performed determine whether any and what Part or Proportion of the accustomed Fees for the Performance of such Offices or any of them shall be assigned to the Incumbent of such District Chapelry; and all such Fees not so assigned, together with the other accustomed Fees, shall belong to the Incumbent of the Church of the original Parish,

Parish, District, or Place, and such Order shall be registered in the Registry of the Diocese.

Compensation to the Incumbent of the Mother Church for the Loss of Fees. 14 & 15 Vict. c. 97. s. 2. 19 & 20 Vict. c. 104. s. 13.

64. Whenever the Fees or any Part thereof arising from the Performance of the Offices of the Church, or of any such Offices, in any District Chapelry formed under the former Church Building Acts or this Act, belong to the Incumbent of the Parish, District, or Place out of which such District Chapelry was formed, the Commissioners may assign to the then existing Incumbent of such Parish, District, or Place such an annual Sum, out of any Monies hereafter placed at their Disposal for that Purpose, as may appear to them a just Compensation for the Loss which any such existing Incumbent may sustain by reason of the Transfer of any of the accustomed Fees, under the Provisions herein contained, to the Incumbent of the District Chapelry.

Reserved Fees to belong to the Incumbent of the Mother Church until he be compensated, relinquish, or until his Avoidance, and then to belong to the Incumbent of the District Chapelry. 14 & 15 Vict. c. 97. s. 5. 19 & 20 Vict. c. 104. s. 12.

65. The accustomed Fees belonging to the Incumbent of the original Parish, District, or Place, arising within such District Chapelry, shall belong to the Incumbent of such District Chapelry, either when such Compensation has been awarded by the Commissioners and has been certified by them (which Certificate shall be registered in the Registry of the Diocese), or when the Incumbent of the original Parish, District, or Place has relinquished by Writing under his Hand, which Writing shall be registered in the Registry of the Diocese, the Fees belonging to him in respect of the Offices of the Church, or upon the Avoidance of any such original Parish, District, or Place by any Incumbent to whom such Fees or any Part thereof belong, whichever of such Three Events shall first happen.

2. *Separate Parochial Districts.*

How a separate District for Spiritual Purposes may be formed. 6 & 7 Vict. c. 37. s. 9. 19 & 20 Vict. c. 104. ss. 1. 3.

66. A separate Parochial District, whether there be or be not within its proposed Limits a consecrated Church, may, by a Representation of the Commissioners and by an Order of Her Majesty in Council ratifying the same, be formed either out of, or by uniting Parts of, any Parish, District, or Place, or of any Number of Parishes, Districts, or Places, or Parishes, Districts, and Places, or by converting an Extra-parochial Place or District, or an ancient or reputed Chapelry, into a separate Parochial District: Provided always, that in every Scheme for constituting any such District the Commissioners shall recommend to Her Majesty in Council that the Minister of such District, when duly licensed, shall be permanently endowed under the Provisions herein-after contained to an Amount of not less than the annual Value of *One hundred* Pounds, and also, if

such Endowment be of less than the annual Value of *One hundred and fifty* Pounds, that the same shall be increased under the like Provisions to such last-mentioned Amount at the least so soon as such District shall have become a new Parish as herein-after provided, unless it shall appear to the Commissioners and shall be declared in the said Scheme that there is Reason to expect from other Sources an adequate Maintenance of not less annual Amount for the Incumbent, in which Case it shall not be necessary for the Commissioners to provide in the said Scheme for any such permanent Endowment as aforesaid. Such separate Parochial District may be formed notwithstanding any Local Act.

District to be named and Church specified. 19 & 20 Vict. c. 104. s. 2. 19 & 20 Vict. c. 104. s. 30.

67. The Commissioners shall, in their Representation to Her Majesty in Council, fix and declare a Name for such separate Parochial District, and may, if they think fit, specify some existing Church, if any, in the District, as the Parish Church of the District; provided that Notice thereof be given by the Commissioners to the Patron and Incumbent of such existing Church.

Consents requisite. 6 & 7 Vict. c. 37. s. 9.

68. Every Representation of the Commissioners to Her Majesty in Council for the Formation of a separate Parochial District shall be made with the Consent of the Bishop under his Hand and Seal.

Draft of Scheme to be sent to Incumbent and Patron of Parish to be divided. 6 & 7 Vict. c. 37. s. 9.

69. The Draft of any Scheme for constituting any separate Parochial District shall be delivered or transmitted to the Incumbent and to the Patron of the Church of any Parish, District, or Place out of which it is recommended that such District or any Part thereof should be taken, or the Conversion of which into such separate Parochial District is recommended, in order that such Incumbent or Patron may have an Opportunity of making to the Commissioners or to the Bishop any Observations or Objections upon or to the constituting of such District.

When Scheme shall be laid before the Queen. 6 & 7 Vict. c. 37. s. 9.

70. Such Scheme shall not be laid before Her Majesty in Council until after the Expiration of *One Calendar Month* next after such Draft shall have been so delivered or transmitted, and such Notice, if any, given, unless in the meantime such Incumbents and Patrons shall consent to such Scheme.

If no Church specified, Minister may be licensed to the District. 6 & 7 Vict. c. 37. s. 11.

71. If the Commissioners do not specify any existing Church as the Church of such separate Parochial District, a Minister may be nominated to such District, and may be licensed thereto by the Bishop; and such Minister shall perform within such District, independently

pendently of the Incumbent or Minister of the Church of any Parish, District, or Place out of which such separate Parochial District or any Part thereof shall have been taken all such Pastoral Duties appertaining to the Office of a Minister of the United Church as shall be specified in such Licence, and shall, so far as the Performance of the same may be authorized by such Licence, have the Cure of Souls in and over such District. 7 & 8 Vict. c. 94. s. 2.

72. Until a Minister be licensed to the new District, no Parish, District, or Place shall, as to the Pastoral Superintendence of the Inhabitants thereof, or otherwise, be affected by the Formation of such District. Until Minister be licensed, original Parish not affected. 7 & 8 Vict. c. 94. s. 10.

73. Such Minister shall be styled "The Minister of the District of ," according to the Name fixed in the Scheme for the same, and shall be subject to the Jurisdiction of the Bishop and Archdeacon within whose Diocese and Archdeaconry such District shall be situate, and shall only be removable from his Office of such Minister as any Perpetual Curate is now by Law removable; and such Minister shall be a Body Politic and Corporate, and shall have perpetual Succession, as well by such Name and in such Character as by the Name and in the Character herein-after provided, as the Case may be; and such Minister may in such Name and Character respectively, notwithstanding the Statutes of Mortmain, receive and take, to him and his Successors, as well every Grant of Endowment or Augmentation made or granted by the Authority of a Scheme and Order in Council, as also any Land or Property which any Body or Person may give or grant to him according to Law. Minister to have the Status of a Perpetual Curate. 6 & 7 Vict. c. 37. s. 12. Capacity to hold Endowments.

74. The Patronage or Right of Nomination of the Minister of such separate Parochial District shall, unless or until such Patronage or Right of Nomination shall be otherwise wholly assigned, or except so far as the same shall be otherwise in part assigned under this Act, be exercised, as herein-after mentioned, alternately by the Queen and the Bishop, such Nomination being first exercised by Her Majesty on the Formation of such District. Patronage until Assignment to be in the Crown and Bishop alternately. 6 & 7 Vict. c. 37. ss. 11. 21.

75. The Bishop at any Time after the Formation of such separate Parochial District, in case no existing Church be specified, may license any Building therein for the Performance of Divine Service according to the Use of the United Church. Bishop may license a Building. 6 & 7 Vict. c. 37. s. 13.

76. Upon such Building being so licensed, such Minister shall perform, independently of the Incumbent or Minister of the original Parish, District, or Place, such Services and Offices of the Church as Minister to perform Services and Offices of the

Church, and to have Cure of Souls in the District. 6 & 7 Vict. c. 37. s. 11.

shall be specified in any Licence granted by the Bishop, and shall also, so far as the Performance of the same may be authorized in any such Licence, have the Cure of Souls in and over such separate District.

Baptisms. 6 & 7 Vict. c. 37. s. 13.

77. All Laws relating to the Registration of Baptisms shall apply to Baptisms performed under any such Licence.

Burials. 6 & 7 Vict. c. 37. s. 11.

78. No Burials shall be performed in such licensed Building, and no Marriages shall be solemnized therein.

Until the District has a Church, certain Rights of original Parish not affected. 6 & 7 Vict. c. 37. s. 14.

79. Unless an existing Church shall be specified, or until a Church shall be consecrated as the Church of such separate Parochial District, nothing herein contained shall affect the Right of any Incumbent of any Church who before the Formation of the District possessed the entire Cure of Souls within the same, or any Part thereof, to publish any Banns, solemnize any Marriages, or perform any Burials in his own Church which he could have published, solemnized, or performed therein, or his Right to receive any Fees, Dues, or Emoluments (except the Fees herein-after authorized to be received by the Minister of such District), which as such Incumbent he could have received if such District had not been formed, nor any Right to attend Divine Service in any other Church which any Inhabitant of such District possessed before such District was constituted.

Churchings. 6 & 7 Vict. c. 37. ss. 13. 15.

80. For Churchings performed in such licensed Building, the Minister thereof may receive such Fees as shall be fixed by the Chancellor of the Diocese.

PART IV.

New Parishes.

1. *Separate Parochial Districts to become new Parishes, when they have Churches.*

District for which no Church has been specified when formed, to be a new Parish as soon as a

81. If no existing Church shall have been specified as the Church of a separate Parochial District formed under this Act, then such separate Parochial District shall, when any Church built, purchased, or acquired therein shall have been approved of by the Commissioners under their Common Seal, and consecrated as the Church of such District, become upon such Consecration a new Parish for Ecclesiastical

tical Purposes, by the Name of "The New Parish of ," instead of "The District of ," according to the Name fixed for such District, and such Church shall be the Church of such new Parish, and thereupon the Minister of such District shall, having been duly licensed without any further Form or Process of Law, become and be the Incumbent of such new Parish and of the Church thereof.

Church is consecrated. 6 & 7 Vict. c. 37. s. 15.

82. Upon such District becoming a new Parish, any Licence granted by the Bishop licensing any Building for Divine Worship as herein-before mentioned shall thereupon be void.

Minister of District to be the perpetual Curate. 6 & 7 Vict. c. 37. s. 15.

83. The Patronage or Right of Nomination of the Incumbent of such new Parish shall, unless or until such Patronage or Right of Nomination shall be otherwise wholly assigned, or except so far as the same shall be otherwise in part assigned under this Act, be exercised, as herein-after mentioned, alternately by the Queen and the Bishop, such Nomination being first exercised by Her Majesty on the Formation of the separate District.

Patronage of new Parish to be in the Crown or Bishop alternately, unless otherwise assigned. 6 & 7 Vict. c. 37. s. 21.

84. If an existing Church shall have been specified as the Church of a separate Parochial District formed under this Act, such District shall immediately upon the issuing of the Order of Her Majesty in Council ratifying the Scheme for the Formation of the District become and be a new Parish, by the Name fixed in the Scheme, and such Church and its Incumbent shall, without any Form or Process of Law, be the Church and Incumbent of the new Parish.

District for which a Church has been specified becomes a new Parish. 19 & 20 Vict. c. 104. s. 2.

85. The Patronage or Right of Nomination of the Incumbent of such new Parish shall belong to the Patron of the Church so specified as aforesaid, unless or until such Patronage or Right of Nomination shall be otherwise wholly transferred, or except so far as the same shall be otherwise in part transferred under this Act.

Patronage to belong to the Patron of the specified Church, unless otherwise transferred.

2. *Districts generally to become new Parishes when all the Offices of the Church may be performed therein.*

86. If and as soon as Baptisms may be ministered, Banns of Matrimony published, Marriages solemnized, and Churchings performed according to the Laws and Canons in any consecrated Church to which a District or reputed District already belongs or shall hereafter belong, such District shall be a new Parish for Ecclesiastical Purposes, whether the entire Fees in respect of such Offices of

When Districts formed under Church Building Acts, &c. become new Parishes. 19 & 20 Vict. c. 104. s. 14.

of the Church are or are not payable to the Incumbent of such Church for his own Benefit; and the Incumbent of such Church shall, without any Form or Process of Law, become and be the Incumbent of such new Parish, and of the Church thereof.

Reservation of the Rights of the Incumbent of the Mother Church.

37. If at the Time of such District becoming a new Parish, the Fees or any Part thereof, for the Performance of the Offices of the Church, shall belong or are payable to the Incumbent of any other Church, nothing in this Act contained shall affect any Rights of such Incumbent in respect of such Fees, Easter Offerings, and Dues, until the Avoidance of the Incumbent to whom such Fees shall belong or be payable, or the Relinquishment by him in Writing of such Fees.

Patronage not to be affected unless transferred.

38. Nothing herein contained shall affect the Patronage or Right of Nomination of the Incumbent of such new Parish, unless or until such Patronage or Right of Nomination shall be otherwise wholly transferred, or except so far as such Patronage shall be otherwise in part transferred under this Act.

PART V.

General Provisions as to Districts and new Parishes.

Nothing in this Act to alter the Power of forming new Parishes under Statute 1 & 2 Vict. c. 106.

39. Nothing in this Act shall be construed to abridge or take away the Powers to form new Parishes, or to alter the Boundaries of Parishes, or to unite or consolidate Parishes, or to annex any Places or Districts to any existing Parishes, contained in an Act passed in the Session holden in the First and Second Years of the Queen, Chapter One hundred and six, or in any other Act or Part of an Act not hereby expressly repealed.

On Application to the Commissioners by Patron, Incumbent, and Vestry, a Parish, Chapelry, or District may be formed out of a Parish regulated by a Local Act. 14 & 15 Vict. c. 97. ss. 21. 29.

40. Where under any Local Act, in force on the *Seventh Day of August One thousand eight hundred and fifty-one*, a Parish cannot be brought within the Provisions of this Act touching the Formation thereout of a Parish, Chapelry, or District, and a Representation is made to the Commissioners by the Patron and Incumbent of such first-mentioned Parish, and by the Vestry of such Parish, that it will be for the spiritual Benefit of such Parish if it be brought within such Provisions, the Commissioners may, with the Consent of the Bishop, put in execution with respect to such Parish the Provisions of

of this Act relative to the Formation of any Parish, Chapelry, or District, and such Provisions shall thereupon be applicable thereto.

Application to Commissioners sufficient if signed by Incumbent and Vestry where Patronage is vested in Inhabitants or Parties above Thirty in Number. 14 & 15 Vict. c. 97. s. 21.

91. If the Patronage of the Church of such Parish be vested in or exercised by the Inhabitants thereof generally, or by any Body or Class of Persons exceeding *Thirty* in Number, such Application to the Commissioners shall be sufficient if signed by the Incumbent and by the Vestry of such Parish; and such Vestry may meet for the Purpose of deciding whether it is expedient to make such Representation to the Commissioners, and if the Majority in Number of those present at such Meeting be in favour thereof, the Churchwardens of such Parish, or the Chairman of such Meeting, shall sign such Representation on behalf of such Vestry or Meeting.

Church built by Subscription may be made a District Church.

92. If within the Space of Forty Years next after the Consecration of any Church erected by private Subscription under the Provisions of an Act passed in the Fifth Year of His late Majesty King George the Fourth, intituled "An Act to make further Pro- "visions, and to amend and render more effectual Three Acts passed "in the Fifty-eighth and Fifty-ninth Years of His late Majesty, "and in the Third Year of His present Majesty, for building and "promoting the building of additional Churches in populous "Parishes," it shall be deemed expedient that a District should be assigned to such Church, the Consent of the Bishop, and of a Majority of the Subscribers entitled to elect the Trustees of such Church, and of the respective Incumbents of such Church, and of the Parish in which the same may have been erected, and of the Patron of such last-mentioned Parish, shall be necessary for that Purpose; and if within such Space of Forty Years Her Majesty in Council shall have duly assigned any District to such Church, the same shall thenceforth be and become a District Church to all Intents and Purposes under this Act; but if no such District shall have been assigned thereto, then upon the Expiration of such Forty Years such Church shall be and remain a Chapel of Ease of the Parish or District in which the same may have been erected, and the same may at any Time afterwards be made a District Church in the same Manner as in the Case of any other Parochial Chapel of Ease, and not otherwise.

Extra-parochial Places may be annexed to or made new Parishes or Districts, &c. 1 & 2 Vict. c. 107. s. 12.

93. Any Extra-parochial Place or any Part of any Extra-parochial Place may, by a Representation of the Commissioners, and by an Order of Her Majesty in Council ratifying the same, be annexed to any adjoining Parish, or be made a new Parish for Ecclesiastical Purposes or Chapelry, under the Provisions of this Act, or annexed to any such new Parish or Chapelry upon the Formation thereof, or at any Time subsequent thereto, subject to the like Consents and

and to the same Rules and Regulations as are contained in this Act relative to the Formation of such Parishes and Chapelries respectively.

In every new Parish Bishop of the Diocese in which the Lord's Table is situated to have Jurisdiction. 59 G. 3. c. 134. s. 6. 2 & 3 W. 4. c. 61. 8 & 9 Vict. c. 70. s. 9.

94. Every new Parish or District Chapelry shall, whether the same or the Church thereof may or may not be situate wholly or in part within any Exempt or Peculiar Jurisdiction, be subject to the Jurisdiction of the Bishop and Archdeacon within the Limit of whose Diocese and Archdeaconry the Lord's Table of such Church is situate, in as full and ample a Manner as it would be if no Part of such new Parish or District Chapelry were within such Exempt or Peculiar Jurisdiction; and in every such Case all other Ecclesiastical Jurisdiction over such new Parish or District Chapelry and its Church shall cease.

Inhabitants of new Parishes to be Parishioners thereof. 19 & 20 Vict. c. 104. s. 15.

95. The resident Inhabitants of every new Parish shall for all Ecclesiastical Purposes be Parishioners thereof, and of no other Parish, and such new Parish shall, for the like Purposes, have and possess all and the same Rights and Privileges, and be affected with such and the same Liabilities, as are incident or belong to a distinct and separate Parish, and no other Liabilities; provided that nothing herein contained shall be taken to affect the legal Liabilities of any Parish regulated by a Local Act of Parliament, or the Security for any Loan of Money legally borrowed.

Minister of new Parish to be a Perpetual Curate and Body Politic and Corporate. 6 & 7 Vict. c. 37. ss. 12. 16. 19 & 20 Vict. c. 104. ss. 14. 15.

95*a*. Every new Parish and its Church shall be a Benefice with Cure of Souls, and its Incumbent shall be a Body Politic and Corporate, with perpetual Succession, and may, without a Licence in Mortmain, receive and hold to himself and his Successors any Land or Property which any Body or Person may give or grant to him according to Law, and, subject to the Rights of the Bishop, shall have sole and exclusive Cure of Souls in and over his Parish, and the exclusive Right of performing all Ecclesiastical Offices within the Limits of the same for the Inhabitants therein.

Incumbent of new Parish to be Vicar or Rector thereof.

96. Every such Incumbent who, but for this Enactment, would be entitled to only the Title or Designation of Perpetual Curate shall be called the Vicar of such new Parish, except that, when all the Tithes, Moduses, Endowments, and other Ecclesiastical Dues or Profits arising within any new Parish shall belong to the Incumbent of the Church of such new Parish, such Incumbent shall be the Rector and not the Vicar thereof.

Disposition of the Money given at the Offertory. 13&14 Car. 2. 8 & 9 Vict. c. 70. s. 6.

97. The Money given at the Offertory in the Church of any new Parish or Chapelry under the former Church Building Acts, or New Parishes Acts, or this Act, shall be disposed of by the Minister and Church-

Churchwardens of such Church in the same Manner as the Money given at the Offertory at any ancient Parish Church is by Law to be disposed of by the Minister and Churchwardens thereof.

Freeholds of Sites of Churches Burial Grounds, and Parsonages of new Parishes to vest in Incumbents. 19 & 20 Vict. c. 104. s. 10.

98. The Freehold of the Site of the Church of every new Parish and Chapelry under this Act, and of the Churchyard, Burial Ground, and Vaults belonging thereto, with the Rights, Easements, and Appurtenances thereof, (but in case the same shall be vested in any Vestry by any Local Act of Parliament then not without the Consent of such Vestry,) and the House of Residence, with the Appurtenances thereof, and all the Land and Property belonging to such Church, or held by or vested in any Body or Person in trust for the exclusive Benefit of the Incumbent of such Church, shall by virtue of this Provision vest in such Incumbent and his Successors for ever, and be held in right of such Incumbency.

Lands, Tithes, &c. to vest in Incumbent and his Successors. 7 & 8 Vict. c. 94. s. 11. 19 & 20 Vict. c. 104. s. 23.

99. Endowments which shall be provided for the Use and Benefit of any Church or the Incumbent thereof, under this Act, shall, unless otherwise permitted by this Act, be settled and assured by the Body or Person providing the same, to the Satisfaction of the Commissioners, by such Deeds and in such Manner as the Commissioners shall from Time to Time direct, unto and to the Use of such Incumbent and his Successors for ever; and such Deeds shall be valid, whether such Church shall be vacant or full of an Incumbent.

Incumbents subject to the Laws relating to Presentation, Institution, &c. 58 G. 3. c. 45. ss. 20. 25.

100. The Laws and Customs of the United Church as to Presentation, Nomination, Institution, Induction, Collation of Licence, Jurisdiction of the Bishop and other Jurisdiction, shall apply to every Incumbent of any new Parish or Chapelry under this Act, and to all Persons presenting or appointing or having a Right to present or appoint him: Provided, that no Incumbent appointed to any Donative or Perpetual Curacy shall be removed at the Pleasure of any Body or Person having the Right of Appointment thereto.

Offices of the Church to be performed in the Church of a new Parish, and Fees to be received by the Incumbent. 6 & 7 Vict. c. 37. s. 15. 19 & 20 Vict. c. 104. ss. 2. 14.

101. The Offices of the Church may be performed in the Church of every new Parish, and such Fees shall be due and payable in respect thereof as shall have been fixed by the Commissioners, or as shall be fixed by the Chancellor of the Diocese in which such new Parish shall be situate, and which Fees such Chancellor is hereby required to fix accordingly; and the like Easter Offerings and Dues may be received within the Limits of such new Parish by the Incumbent thereof as are and were, at and before the Time of the new Parish becoming such, payable to the Incumbent of the Church of the Parish, District, or Place out of which such new Parish was formed.

Churchwardens to be chosen. 6 & 7 Vict. c. 37. s. 17. 19 & 20 Vict. c. 104. ss. 2. 14.

102. Whithin *Twenty-one* Days from the Time that any new Parish or Chapelry under this Act is formed, or shall become such, Two fit Persons, being Inhabitants thereof and Members of the United Church, shall be elected and admitted Churchwardens for such new Parish or Chapelry, one being chosen by the Incumbent thereof and the other by the Majority of the Inhabitants thereof voting at such Election, and having a similar Qualification to that which would by the Common Ecclesiastical Law entitle Inhabitants to vote at the Election of Churchwardens for any Parish.

Mode of Election. 6 & 7 Vict. c. 37. s. 17.

103. Such Election shall take place at a Meeting to be summoned in such Manner in all respects as such Incumbent shall direct; and the Successors in Office of such Churchwarden shall be appointed at the then next usual Period of appointing Parish Officers; and at the like Time in every Year Two such Persons shall thenceforward be chosen by the Incumbent for the Time being and Inhabitants so summoned and assembled; and the same Rule shall apply to all Elections, after the passing of this Act, of Churchwardens for any new Parishes or Chapelries formed under any of the former Church Building Acts or New Parishes Acts before the passing of this Act.

Duties. 6 & 7 Vict. c. 37. s. 17.

104. Every Person so chosen shall be admitted, and shall collect, receive, and appropriate the Pew Rents, if any, fixed by the Commissioners, or otherwise payable for the Pews and Seats in the Church of such new Parish or Chapelry (as the Case may be), and pay the Stipend or Salary (if any) assigned thereout to the Incumbent and Clerk (or either of them) of the said Church, and shall do all Things pertaining to the Office of Churchwarden as to Ecclesiastical Matters in the new Parish or Chapelry; provided that nothing herein contained shall render any such Churchwardens liable or competent to perform the Duties of Overseer of the Poor in respect of their Office of Churchwarden.

Clerk and Sexton to be appointed by Incumbent. 19 & 20 Vict. c. 104. s. 9.

105. The Parish Clerk and Sexton, if any, of the Church of every new Parish under this Act shall be appointed by the Incumbent for the Time being of such Church, and may be by him at any Time removed, at the Will of such Incumbent.

Pew Rents may be applied in certain Cases towards Repair of Church of new Parish and Endowment of Ministers. 19 & 20 Vict. c. 104. s. 6.

106. The Commissioners may, from Time to Time, if it appear to them that sufficient Funds cannot be provided from other Sources, but not otherwise, with the written Consent of the Bishop, Patron, and Incumbent, and after due Notice to the Churchwardens, order under their Common Seal that annual Rents may be reserved and taken in respect of any Pews or Sittings in any Church for or to which a separate Parochial District may have been formed or assigned since

since the *Twenty-eighth Day of July One thousand eight hundred and fifty-six*, under the former New Parishes Acts, or may hereafter be formed or assigned under this Act; and such Rents shall be charged, levied, and taken by the Churchwardens for the Time being of such Church after a Rate or Scale which shall be specified in such Order, and the Proceeds not otherwise appropriated by Law shall be applied towards the Repair and Maintenance of the same Church, or the Maintenance of the Incumbent or the Services thereof, or the Endowment of such Church, or for any of the Purposes aforesaid, in such Manner as shall be specified in such Order, and to no other Uses.

One Third of the Pews or Sittings to be Free Sittings. 19 & 20 Vict. c. 104. s. 6.

107. *One Third* Part at least of the whole Number of Pews or Sittings in every such Church as last before mentioned shall be Free Sittings, and it shall be shown to the Satisfaction of the Commissioners that such Free Sittings will, with respect to Position and Convenience, be as advantageously situated as those for which a Rent may be fixed and reserved.

Upon a permanent Endowment being provided for Church of new Parish, a proportionate Amount of Sittings to be declared free, or Scale of Pew Rents to be reduced. 19 & 20 Vict. c. 104. s. 7.

108. Upon a permanent Endowment being provided for any Church in which Pew Rents have previously been authorized to be taken, and upon such Endowment being approved of by the Commissioners, they may, by an Order under their Common Seal, with the Consent of the Bishop, make an equivalent Reduction in the total Amount of the Rents authorized to be taken for the Pews or Sittings in such Church, if the same be not appropriated by Law for specific Purposes, either by a Reduction of the Rate or Scale, or by declaring certain specific Pews or Sittings theretofore chargeable with Rents to be absolutely free.

Such Alteration not to affect Loan on Pew Rents. 19 & 20 Vict. c. 104. s. 6.

109. If any Sum of Money shall have been borrowed under the Authority of any Act of Parliament or Order in Council upon the Security of Pew Rents, such Order of the Commissioners shall not take effect until after the Repayment of every Sum so charged or chargeable.

Pew Rents may be altered. 19 & 20 Vict. c. 104. s. 8.

110. The whole or any Part of the Provisions contained in any such Order made by the Commissioners may be from Time to Time rescinded by them, with the Consent of the Bishop, Patron, and Incumbent, and after due Notice to the Churchwardens.

PART VI.

Substitution of new for old Parish Churches.

Commissioners may, in certain Cases and with certain Consents, direct

111. When the Commissioners are of opinion that it will be for the Convenience of any Parish, District, or Place that any other Church situate within the same should be substituted for the old or existing Church thereof, they may, by an Instrument under their

the Transfer of the Endowment of an old Church to a new Church, and the old Church may be pulled down by Faculty. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. s. 1.

Common Seal, with the Consent of the Vestry and of the Bishop, Patron, and Incumbent under their Hands and Seals, declare that such other Church shall be substituted for the old or existing Church, and transfer the Endowments, Emoluments, and Rights belonging to such old or existing Church, or to the Incumbent thereof, to such other Church and to the Incumbent thereof and his Successors, and the Trustees, if any, of such old or existing Church, or of any Rights, Emoluments, or Endowments belonging thereto, or to the Incumbent thereof, shall transfer the same according to the Direction of the Commissioners; provided that such Consent of any Vestry shall be confirmed by a subsequent Vestry to be specially called for the Purpose.

Glebe Lands, &c. belonging to the old Church to be vested in the Incumbent of the new Church. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. ss. 1, 2.

112. Immediately from and after any such Transfer all Glebe Lands, Tithes, and other Endowments, Emoluments, Fees, and Profits, and every Matter or Thing, whether Real or Personal, and all Rights and Privileges wherewith the old or existing Church is or was at the Time of such Substitution endowed, shall be vested in and belong to the Incumbent for the Time being of such substituted Church and his Successors, in as ample a Manner as the Incumbent of the old or existing Church might have enjoyed the same if such Transfer had not taken place, and the Incumbent of the old or existing Church shall thereupon be the Rector, Vicar, or Perpetual Curate, as the Case may be, of such substituted Church, instead of Rector, Vicar, or Perpetual Curate of the old or existing Church, without any Presentation, Institution, Induction, Collation, or other Form of Law.

New Church to have the same Rights as the old Church. 3 G. 4. c. 72. s. 30. 8 & 9 Vict. c. 70. s. 1.

113. Such substituted Church shall thereupon have the same Rights and Privileges in relation to all Matters, Civil and Ecclesiastical, as such old or existing Church, and such Offices of the Church as were performed and celebrated in such old or existing Church shall be performed and celebrated in such substituted Church.

Claims of Persons to Pews in the old Church to be investigated, and if proved such Persons to have Pews in the new Church, on the same Terms as in the old Church. 8 & 9 Vict. c. 70. s. 1.

114. At any Time within *Six* Months after any such Substitution the Bishop may, of his own mere Motion, issue, or, if thereunto required by any Person claiming to hold a Pew or Seat free of Rent in such old or existing Church by Faculty or Prescription, shall issue, a Commission under his Hand and Seal, directed to the Archdeacon of the Archdeaconry in which such old or existing Church is situate, and to any Two Incumbents of Parishes situate within such Archdeaconry, and to any Two Laymen nominated by the Churchwardens of such Church, who are hereby required to nominate for such Purpose Two fit Persons not claiming any such Pew or Seat.

Issuing of Commission to ascertain

115. Such Commission shall direct such Commissioners to inquire into the Rights of Persons, if any, who claim to hold any such Pews

or

or Seats in such old or existing Church by Faculty or Prescription; and the Commissioners, or any Three or more of them, of whom such Archdeacon shall be One, shall, as soon as conveniently may be, proceed to examine into such Claims, after giving *Fourteen* Days previous Notice thereof, by affixing a Copy of such Commission on the Church Doors of such substituted Church; and such Notice shall specify the Day and Time and Place on which such Inquiry and Examination are to be made.

Rights to Pews or Seats. 8 & 9 Vict. c. 70. s. 1.

116. After such Commissioners shall have examined and decided upon such Claims the Archdeacon shall transmit in Writing under his Hand to the Bishop the Names and Residences of the Persons who have substantiated their Claims to such Pews or Seats, and if the Bishop be satisfied therewith he shall assign, under his Hand and Seal, to such Parties respectively, convenient Pews or Seats in such substituted Church, and such Seats so assigned shall be held and enjoyed by the Persons entitled thereto in the same Manner as the Pews or Seats which they had or would have been entitled to in such old or existing Church.

Return to be made to the Bishop of Persons entitled to Pews and Seats. 8 & 9 Vict. c. 70. s. 1.

117. If any Person find himself aggrieved by the Finding of such Commission, the Bishop shall have Power to afford Redress, by allotting to such Person Pews or Seats in such substituted Church, to be held and enjoyed in manner aforesaid if, in his Judgment, the Justice of the Case require it.

Appeal against Decision of Commissioners. 8 & 9 Vict. c. 70. s. 1.

118. The old or existing Church may, if the Bishop think fit, after the Expiration of such *Six* Months, if such Claims shall have been satisfied, be wholly or partly pulled down, under a Faculty to be granted for that Purpose; and the Bishop shall in that Case take care that all Tombstones, Monuments, and Monumental Inscriptions in such Church so pulled down are as far as may be preserved by the Churchwardens, at the Expense of the Parish, District, or Place, or, if the Bishop deem it expedient, the same shall be transferred, at the Expense of the Parish, District, or Place, to such substituted Church.

The old Church may be pulled down, &c. Preservation of Tombstones, Monuments, &c. 8 & 9 Vict. c. 70. s. 1.

119. Such old and existing Church, unless and until the same shall be pulled down, shall remain and be a Chapel of Ease, and the Right of Nomination to such Chapel, so long as it shall remain a Chapel of Ease, shall vest in the Incumbent of the Parish, District, or Place. Such old and existing Church may on or at any Time after such Substitution or Transfer be made under this Act the Church of any Parish, District, or Place, by an Order in Council.

Until Order in Council take effect, Church to be a Chapel of Ease. 1 & 2 Vict. c. 107. s. 16.

 120. In

Pew Rents to be fixed by Commissioners. 8 & 9 Vict. c. 70. s. 1.

120. In case such substituted Church has been built wholly or in part out of the Funds placed at the Disposal of the Commissioners under the former Church Building Act or this Act, Rents for the Pews or Seats in such Church shall only be fixed by the Commissioners under this Act for that Number of Pews or Seats therein which shall exceed the Number of Pews or Seats provided in the old or existing Church; provided that equally convenient Pews or Seats shall be allotted in the substituted Church to such of the Parishioners as possessed or enjoyed Rights thereto in the old or existing Church.

Incumbent of old Church and his Successors to be Incumbent of new Church. 8 & 9 Vict. c. 70. s. 2.

121. The Body or Person who for the Time being would have had a Right of presenting or appointing the Incumbent of such old or existing Church in case such Transfer had not been made shall, in lieu thereof, when any Vacancy occurs, have such and the like Right of presenting or appointing the Incumbent of such substituted Church as such Body or Person could have had with respect to the old or existing Church.

No new Church to be substituted for an old Church when Advowson belongs to any other Person than Patron of the original Church. 8 & 9 Vict. c. 70. s. 1.

122. Nothing herein contained shall authorize the Substitution of any Church in lieu of any old or existing Church when the Advowson of or Right of Nomination to such first-mentioned Church shall belong to any other Body or Person than to the Patron of such old or existing Church, without the Consents in Writing of the Patron or Incumbent of such first-mentioned Church.

Existing Church to comprehend Two Churches forming the Church of One Benefice.

123. The Term old and existing Church, in the Provisions herein-before contained, shall include and comprehend both or either of Two Churches held together and forming the Church of One Benefice.

Where any Part of a Cathedral Church has been accustomed to be used as a Parochial Church, such Church may, with certain Consents, be made a new Church. 8 & 9 Vict. c. 70. s. 4.

124. Where any Part of a Cathedral Church has been accustomed to be used as a Parochial Church, the Commissioners may, with the Consents of the Bishop and Dean and Chapter of such Cathedral Church, and also with the Consents of the Patron and Incumbent of such Church, transfer the Rights, Emoluments, Tithes, and other Endowments (if any) belonging to the Incumbent of such Church, to any substituted Church which has been or hereafter may be built, and which is situate in the Parish where such Part of such Cathedral is or of which it is deemed to be the Parish Church.

Rights, Privileges,

125. In case of such Transfer the Provisions herein-before contained touching the Rights, Privileges, Succession, and Appointment of the Incumbent of a Church substituted for an old Parochial Church, and the Performance of the Offices therein, and the Examination into the Claims of Parties claiming to hold Pews or Seats by

by Faculty or Prescription in the old Parochial Church, and the Assignment of Pews or Seats to those who have substantiated such Claims, or received such Allotment of Pews or Seats as herein-before mentioned, shall apply to such substituted Church, which after such Transfer shall become the Parish Church in lieu of the old Parochial Church so forming a Part of such Cathedral Church; and such substituted Church and the Incumbent thereof shall, after such Transfer, be subject to the same ordinary and other Ecclesiastical Jurisdiction as the old Parochial Church and the Incumbent thereof were or could have been respectively subject to.

&c. to be transferred. 8 & 9 Vict. c. 70. s. 4.

126. The Part of the Cathedral Church vacated by the Substitution of such other Church for the same shall thenceforth remain and be deemed to be Part of the Cathedral Church, in the same Manner as if it had never been used as a Parochial Church, and shall thenceforth be subject to the same Control and Superintendence, and to the same Laws as to Repairs, as may be in force with respect to the Cathedral Church, and the Parish shall thenceforth be exempt from all further Liability (if any) to keep the same in repair; provided that the Body or Persons liable to the Repair of such Part of such Cathedral Church whilst it was so used as a Parochial Church shall continue to be liable to the Repairs of the substituted Church.

Liabilities for Repairs, &c., 8 & 9 Vict. c. 70. s. 4.

PART VII.

Rebuilding and enlarging Churches.

127. The Churchwardens of any Parish, District, or Place, or Persons appointed to act as Churchwardens therein, by the Vestry thereof, may take down the existing Church or any Part thereof, and rebuild or enlarge it upon the same or a new Site, by means of any Funds given or provided by voluntary Donation or Subscription, with the Consent of the Vestry ratified at a subsequent Meeting to be specially called for the Purpose, and with the Consent also under the respective Hands of the Bishop, Incumbent, Patron, and Lay Impropriator, if any, of such Church.

Powers for rebuilding or enlarging the Church. 59 G. 3. c. 134. s. 40.

128. Of the additional Accommodation obtained by the rebuilding, enlarging, or otherwise extending the Accommodation of any Church, One Half, at least, shall be set apart for Free Seats in the Case of a Parish Church, and One Third at least in the Case of any other Church. . . . . .

One Half of the additional Accommodation to be set apart for Free Seats. 58 G. 3. c. 45. s. 59. 59 G. 3. c. 134. s. 40.

129. Persons possessing by Faculty or Prescription the Right to any Pews or Sittings within such Church so to be taken down shall have Pews or Sittings as near as may be in the same Situation and of equal Accommodation allotted and set apart for them in such new Church, and to be held by them respectively in like

Rights by Faculty or Prescription preserved. 59 G. 3. c. 134. s. 40.

Manner as in the old Church, and all Tombstones, Monuments, and Monumental Inscriptions in such Church so to be taken down shall be carefully preserved by the Churchwardens, and shall be set up by them, at the Charge of the Parish, in such new Church, as near as Circumstances will admit in the same Situations as in the old Church.

PART VIII.

Conversion of Vicarages into Rectories.

The Commissioners may convert a Vicarage or the Division of a Vicarage into a Rectory. In case of Impropriate Rectory the Owner must consent. In case of Sinecure Rectory the Patron and Incumbent must consent. 3 G. 4. c. 72. s. 13.

130. The Commissioners may convert a Vicarage of any Parish or any of the separate Divisions formed thereout under the former Church Building Acts or this Act, into a Rectory instead of a Vicarage, whenever the Owner beneficially entitled in Fee Simple to the Rectory or Tithes (if an Impropriate Rectory), or the Patron so entitled of a Sinecure Rectory, and also the Incumbent of the Sinecure Rectory of such Parish, if the same be not void at the Time of any such Conversion, and the Person (if any) beneficially entitled to the absolute Interest in any Lease granted of the Sinecure Rectory, or Glebe or Tithes thereof, consents to restore, release, and reunite the Tithes and Glebe and all other Rectorial Rights, Dues, and Emoluments of any such Parish, or any such Part or Proportion thereof as is satisfactory to the Commissioners, to the Incumbent of such Parish and his Successors for ever; and such Surrender or Restoration shall be made by any Instrument as the Commissioners shall direct.

Instrument of Conversion to be registered and enrolled. 3 G. 4. c. 72. s. 13.

131. The Commissioners shall, under their Common Seal, direct such Conversion of any such Vicarage into a Rectory, from the Period specified in such Instrument, and upon the Conditions as to the Transfer, Restoration, or reuniting of Tithes, Glebe, or other Rectorial Rights, Dues, and Emoluments therein mentioned; which Instrument shall be registered in the Registry of the Diocese in which the Parish shall be locally situate, and enrolled in the High Court of Chancery.

Parish to be deemed a Rectory. 3 G. 4. c. 72. s. 14.

132. Every such Parish, or such separate Division formed thereout as aforesaid, as the Case may be, shall be deemed a Rectory without Prejudice to the Rights of any other Persons; and the Incumbent of any such Vicarage shall thereupon become and be Rector of such Parish or such separate Division thereof, without any new Induction or other Proceeding whatever, and shall be entitled to use all such Remedies as if he had been inducted thereto, for the Recovery of Tithes, Glebe and all other Rectorial Rights, Dues, and Emoluments, as Rector of such Parish or Division.

Consents to be binding. 3 G. 4. c. 72. s. 13.

133. The Commissioners, before any such Transfer can be completed, may accept and confirm any such Restoration or Release and

and Reunion of any such Tithes, and accept and record the Consents or Engagements in relation thereto, and may proceed to the completing of any such Transfer for the Purpose of converting any such Vicarage into a Rectory; and all such Consents shall be binding upon the Heirs, Successors, Executors, and Administrators respectively of any Person giving the same, if any Death or Change should thereafter occur in any Patronage or Incumbency, as if the Consent had been given and Transfer made by the Impropriator, Patron, or Sinecure Rector and Incumbent, if any, and Tenant for the Time being, when the Arrangement and Division is completed.

Liability of Incumbent for the Maintenance and Repair of House of Residence. 3 G. 4. c. 72. s. 13.

134. No Incumbent shall in any such Case become liable to the Maintenance or Repair of more than One House of Residence in any such Parish; and when in any such Parish there is more than One House belonging to the Church thereof, the Bishop shall decide which shall thereafter be deemed the House of Residence, and be maintained and repaired as such; and the Order of the Bishop in relation thereto shall be registered in the Registry of the Diocese, and a Duplicate Copy of such Order shall be deposited and be kept in the Chest of the Church of such Parish.

Sinecure Rector may release Part of Rectorial Glebe, &c. and retain the Remainder in Fee Simple, for the Purpose of converting any Vicarage into a Rectory by the Commissioners. 3 G. 4. c. 72. s. 14.

135. If the Commissioners think proper to convert into a Rectory the Vicarage of any Parish, or separate Division of a Parish, which shall be so divided, or in which a new Church shall have been erected under the former Church Building Acts or this Act, and the Possessor of the Sinecure Rectory of such Parish for Two or more Lives, by virtue of a Lease granted thereof by a Rector with the Consent of the Patron and Bishop, be desirous of retaining any Manor or other Hereditaments, being the Glebe Land or Part of the Glebe Land of such Rectory, and be willing to surrender all his Estate in the Tithes, and the Residue (if any) of the Glebe Land of such Rectory, on condition that such Manor and other Hereditaments be vested in him in Fee Simple absolutely, then the Commissioners may, with the Consent of the Patron of such Rectory, being absolutely and beneficially entitled thereto, and the Incumbent thereof (if any), by any Instrument under the Seal of the Commissioners, and sealed and delivered by such Patron and Incumbent (if any), upon the Execution by such Possessor of such Rectory, together with the Patron and Incumbent (if any) thereof, and of the Commissioners, of such Instruments as herein-before mentioned or referred to, for surrendering, releasing, and vesting all the Rectorial Tithes and Glebe Land (except the Manor and other Hereditaments to be retained as aforesaid), to release and convey such Manor and other Hereditaments to such Possessor or such other Person as he shall in that Behalf direct, his Heirs and Assigns.

Instruments of Surrender,

136. Such Instruments shall be enrolled in the High Court of Chancery, and upon the Execution thereof the Manor and other Here-

&c. to be enrolled. 3 G. 4. c. 72. s. 14.

Hereditaments comprised therein, and the Fee Simple thereof, shall be vested in the Person to whom the same shall be conveyed, his Heirs and Assigns.

PART IX.

Assignment and Transfer of Rights of Patronage.

Patronage of a separate District without a specified Church, before and after it becomes a new Parish, may be conferred upon Contributors to Endowment. 6 & 7 Vict. c. 37. s. 20.

137. It shall be lawful, by the Authority of a Representation of the Commissioners and an Order in Council ratifying the same, at any Time to assign to any Body or Person, or the Nominee of any Body or Person, either in perpetuity, or for One or more Nomination or Nominations, the Right of Patronage of any separate Parochial District, (as well before as after it shall have become a new Parish,) for which no Church was specified in the Scheme for its Formation, upon Condition of such Body or Person contributing, in such Proportion and Manner as shall be approved by the like Authority, to the permanent Endowment of the Minister or Incumbent, or towards providing a Church for such separate Parochial District or new Parish.

Patronage may be conferred in return for certain Endowments. 6 & 7 Vict. c. 27. s. 20. 19 & 20 Vict. c. 104. s. 16.

138. It shall be lawful, by the like Authority of a Representation and Order in Council, with the Consents herein-after contained, at any Time to transfer, either in perpetuity or for One or more Nominations, to any Body or Person, or their or his Nominee, the Right of Patronage of the Church of any Parish, District, or Place the Patronage whereof is vested either wholly or partly in the Incumbent of the original Parish, District, or Place out of which such other Parish, District, or Place shall have been taken, by reason of his being such Incumbent, and not of any private Right, or of any new Parish for which an existing Church was specified in the Scheme for the Formation of the separate Parochial District, or of any existing Parish or District having neither Incumbent nor any known Patron, or of any Benefice the Patronage of which is vested in the Crown, whether in its own Right or in right of the Duchy of Lancaster or of the Duchy of Cornwall, or is vested in the Duke of Cornwall, or in any Ecclesiastical or Lay Corporation, aggregate or sole, upon Condition of such Body or Person contributing, in such Proportion and Manner as shall be approved by the like Authority, to the permanent Endowment of the Minister or Incumbent, or towards providing a Church for such Parish, District, or Place.

The Cases in which the Patronage of such Benefices may be transferred. 19 & 20 Vict. c. 104. s. 16.

139. No Transfer of the Right of Patronage of such Benefices respectively shall be made so long as the permanent annual Endowment of such Benefices respectively shall exceed *One hundred Pounds*, or the annual Income of the same from all Sources the Sum of *Two hundred and fifty Pounds*, such Income to be calculated by the Commissioners in the Manner provided by the Eighth Section of an Act of the First and Second Years of the Queen, Chapter One hundred and

and six, and when any Portion of such Income shall arise from Pew Rents, the Value of such Portion shall be calculated upon an Average of the *Three* Years then last preceding.

Transfer of Patronage in perpetuity to be made with certain Consents. 19 & 20 Vict. c. 104. s. 18.

140. Such Transfer shall be made in the following Cases, with the following Consents only; that is to say, in the Case of a Benefice wholly or partly in the Patronage of the Crown, or of the Duke of Cornwall, or of a Bishop, or of any Lay or Ecclesiastical Corporation Aggregate, with the Consent of the Patron thereof; and in the Case of a Benefice either wholly or partly in private Patronage, with Consent of the Patron of such Benefice; and in the Case of a Benefice in the Patronage of an Incumbent of any other Benefice, with Consent of the Bishop of the Diocese, and also with Consent of the Patron of such other Benefice, if in private Patronage; and in the Case of any Parish or District having no known Incumbent or Patron, with the Consent of the Bishop alone.

Amount of Endowment necessary for Transfer of Patronage in perpetuity. 19 & 20 Vict. c. 104. s. 17.

141. No Transfer of any Rights of Patronage shall be made in perpetuity, under the Provision in that Behalf herein-before contained, for any less Consideration than the building a Church to the Satisfaction of the Commissioners as and for the Church of such Parish, District, or Benefice, or the permanently endowing the Church of such Parish, District, or Benefice with a clear yearly Sum of *One hundred and fifty Pounds;* and the Commissioners may in lieu of such Sums, or as Part thereof, accept any Gift of Land or Property which they shall judge to be suitable in its Nature and equivalent to such Sums in each Case respectively, or to the Part thereof in lieu of which it shall be accepted.

In certain Cases Patronage acquired in perpetuity not to be sold. Penalty of Lapse for a doing. 19 & 20 Vict. c. 104. s. 21.

142. Whenever the Right of Patronage of any such Benefice shall have been transferred in perpetuity to any Body or Person, and whenever such Benefice shall, at the Time of such Transfer of Patronage, be already permanently endowed with an annual Sum of not less than *One hundred Pounds*, or whenever the annual Income of such Benefice from all Sources shall, when calculated upon an Average of the *Three* Years immediately preceding the Augmentation, amount to *One hundred and fifty Pounds*, no subsequent Sale, Assignment, or other Disposition of such Right of Patronage by any Body or Person whatsoever, for any valuable Consideration, shall be made until *Thirty* Years next after such Transfer, unless the entire Proceeds be legally secured to the further permanent Augmentation of such Benefice, but every such Sale, Assignment, or other Disposition shall be illegal, and every Presentation, Collation, Admission, Institution, or Induction thereupon shall be void, and the Right of Patronage of such Benefice shall thereupon for that Turn lapse to the Bishop.

Notice to be sent to Patrons. 19 & 20 Vict. c. 104. s. 19.

143. When the Commissioners intend to make any Transfer of Patronage under this Act they shall give at least *One Month's* Notice in Writing of that Intention to the Patron thereof and to the Body or Person whose Consents are herein required, and such Notice shall be served as herein-after provided.

Saving of Rights of Incumbents on the 29th of July 1856 until Avoidance. 19 & 20 Vict. c. 104. s. 21.

144. If, on the *Twenty-ninth Day of July One thousand eight hundred and fifty-six*, the Patronage of the Church of any District which shall have been formed or assigned under any of the former Church Building Acts, or under the former New Parishes Acts, was vested in the then Incumbent of the original Parish, District, or Place out of which such District was taken, such Incumbent shall not be deprived of the Patronage of such Church by any Transfer of the same during his Incumbency without his Consent.

Appointment, Number, and Qualification of Trustees. 19 & 20 Vict. c. 104. s. 24.

145. Where the Commissioners shall make any Assignment or Transfer of any Right of Patronage under Part IX. of this Act to the Nominees of any Body or Person respectively such Nominees shall be not more than *Five* in Number, and shall be nominated in Writing to the Commissioners by such Body or Person, or by the major Part in Value of the Subscribers of not less than *Fifty Pounds* each to the Endowment or Augmentation in consideration of which such Assignment or Transfer is made.

Nominees to be Members of the United Church. 19 & 20 Vict. c. 104. s. 24.

146. Every such Nominee shall upon his Appointment sign a Declaration that he is a Member of the United Church.

Crown may nominate Ministers to Districts or new Parishes under the Sign Manual. 7 & 8 Vict. c. 94. s. 1.

147. Wherever any Right of Patronage of any separate Parochial District or new Parish shall be assigned to or vested in or may be exercised by Her Majesty under this Act Her Majesty may nominate to the Bishop a Spiritual Person to be licensed to such District or new Parish as Incumbent thereof by Warrant under Her Royal Sign Manual; and such Warrant shall authorize such Bishop to license such Spiritual Person.

Bishop may license a Spiritual Person to separate Districts or new Parishes. 7 & 8 Vict. c. 94. s. 2.

148. Wherever any Right of Patronage of any separate Parochial District or new Parish shall in like Manner be assigned to or vested in or may be exercised by any Bishop under this Act such Bishop may license a Spiritual Person to such District or new Parish as the Incumbent thereof in the same Manner, mutatis mutandis, as he may now by Law license a Spiritual Person to any Perpetual Curacy.

No Fee for the Queen's Warrant.

149. No Fee shall be payable for any such Warrant; and a Fee of *One Pound* only shall he receivable by the Secretary of any Bishop for or in respect of each and every Licence granted by any Bishop

Bishop of an Incumbent of any separate Parochial District or new Parish, or of any Building licensed by such Bishop within any such District for the Performance of Divine Service, pursuant to the Provisions of this Act; and no further or larger Fee or Gratuity shall be receivable by any Person whomsoever for the making, issuing, or granting or registering of any such Licences.

Fee for Licence. 7 & 8 Vict. c. 94. s. 3.

150. Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Tail, Husbands, Guardians, Trustees, and Feoffees in Trust, Committees, Executors, and Administrators, and all other Persons and Trustees whosoever, (not only for or on behalf of themselves, their Heirs and Successors, but also for and on behalf of Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or other Persons,) and all Femes Covert who are or shall be possessed of or entitled to or interested in their own Right in, and every other Person who shall be possessed of or entitled to or interested in any Right of Patronage or of Presentation or Appointment to any Benefice, Donative, Perpetual Curacy, or of any Spiritual Person to any Church, or to the Performance of any Ecclesiastical Duties in any Church, or the Trustees of any Endowments or Emoluments for the Use of any Church, or the Incumbent thereof, or the Spiritual Person serving the same, may surrender any such Right of Patronage, Presentation, Appointment, Endowments, or Emoluments, or may enter into or make any Agreement relating thereto, with the Commissioners and the Bishop, for the Purpose of better enabling the Commissioners to convert any such Church or Chapel into the Church or Parochial Chapel or Chapel of Ease of a Parish, District, or Place, and to convert any Chapelry or other Ecclesiastical Division into a Parish, District, or Place for Ecclesiastical Purposes: Provided, that such Surrender or Agreement be sanctioned by the Commissioners under their Common Seal, and by the Bishop under his Hand and Seal; and every Body and Person so making such Surrender or Agreement is hereby indemnified for so doing.

Bodies Politic, &c. may give up Rights of Patronage, and Endowments and Emoluments, held by them in trust, to enable the Commissioners to establish District Churches. 59 G. 3. c. 134. s. 15. 3 G. 4. c. 72. s. 15. 1 & 2 Vict. c. 107. s. 15.

Bodies Politic, &c. indemnified.

PART X.

Gifts and Purchases of Sites, Endowments, and Materials for Ecclesiastical Purposes.

151. Any Grant, Gift, or Devise of Land or Property made pursuant to the Provisions herein-after contained to any Body or Person, or to the Commissioners, or to such other Body or Person

Statutes of Mortmain not to apply to Conveyances of Gifts or Grants of Lands, &c. 43 G. 3. c. 108. s. 1.

51 G.3.c.115. ss. 1. & 2. 52 G.3.c.161. s. 27. 10 G.4. c. 50. s. 45. 3 & 4 Vict. c. 60. ss. 2, 3. 17. 14 & 15 Vict. c. 97. s. 8.

Person as they shall direct, shall be valid, without any Licence or Writ of Ad quod damnum, and notwithstanding the Grantor or Donor may die within *Twelve* Months from the Execution of the Deed or Will by which such Land or Property is granted or given, and any Body or Person granting, giving, or devising Land and Property under this Act is hereby indemnified in respect thereof.

Except where Endowment exceeds the annual Value of 300*l*. 3 & 4 Vict. c. 60. ss. 2, 3. 17. 14 & 15 Vict. c. 97. s. 8.

152. Nothing herein contained shall authorize an Exemption from the Provisions of the Mortmain Acts in the Case of an Endowment for the Use or Benefit of any Church, or of the Incumbent thereof (unless such Endowment shall be made in consideration of any Assignment, Transfer, or Declaration of any Right of Patronage under this Act), where such Endowment shall amount, together with the former Endowment, if any, provided out of Property subject to the Provisions of the Mortmain Acts, to more than the clear annual Value of *Three hundred Pounds*.

Power to determine the clear annual Value of such Endowment. 3 & 4 Vict. c. 60. s. 4.

153. In every Case in which it is required to ascertain the clear annual Value of any Endowment under this Act the Commissioners may cause such clear annual Value to be determined by any *Two* Persons whom they shall appoint, by Writing under their Common Seal, which Writing shall be annexed to the Instrument by which such Endowment is effected; and a Certificate of such clear annual Value, written and endorsed on such Instrument by which such Endowment is effected, and signed by such Persons, shall for the Purposes of this Act be conclusive Evidence of such clear annual Value.

Commissioners of Woods and Forests, &c., and Persons under Disability generally, may convey Lands and Buildings to the Commissioners. 51 G.3.c.115. s. 1. 52 G.3.c.161. s. 27. 58 G.3. c. 45. ss. 34. 36, 37. 59 G.3.c.161. s. 37. 3 G. 4. c. 72. s. 1. 5 G. 4. c.103. s. 19. 1 & 2 Vict. c. 107. s. 8.

154. It shall be lawful for the principal Officers of any Public Department having or holding any Land for Her Majesty for the public Use of any such Department, with the Consent in every Case of the Commissioners of Her Majesty's Treasury, or for Her Majesty by the Chancellor of the Duchy of Lancaster as to Lands of the said Duchy, and also for any Body or Person having the Control, Care, or Management of any Hospital, School, Charitable Foundation, or other Public Institution, as to any Land belonging to such Hospital, School, Foundation, or Institution, and for all Tenants for Life or in Tail as to any Land of which they may be seised or possessed, and for all Husbands, Guardians, Trustees, and Feoffees in Trust, Committees, Executors, and Administrators, and all other Persons and Trustees, as to any Land of which they may be seised or possessed (not only on behalf of themselves, their Heirs and Successors, but also on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or other Persons), and for all Femes Covert, as to any Land of which they may

may be seised or possessed in their own Right, by Deed executed by or under the Seal of such Body or Hand and Seal of such Person respectively, to grant and convey, by way of Gift, Sale, or Exchange, to the Commissioners, or such Body or Person as they may direct, such Quantity of any Land of which they may be so seised or possessed, as shall in the Opinion of the Commissioners be sufficient for Sites for Churches, or for erecting, rebuilding, repairing, or purchasing Churches or for Churchyards or Cemeteries, or for Houses of Residence with Appurtenances, or for Gardens, or for Glebe Lands, or for enlarging or improving or making a convenient and proper Access thereto respectively.

Sites of Churches, Burial Grounds, or Parsonages.

155. Every Body or Person having in his or their own Right, or in right of his or their Body Corporate, any Estate or Interest, in possession, reversion, or contingency, of or in any Land or Property shall have Power, Licence, and Authority, by Deed, in the Case of any Land, but without any Deed in the Case of any Personal Estate, to grant and convey by way of Gift, Sale, or Exchange, or by Will to devise or bequeath to any Body or Person, or to the Commissioners, or to such other Body or Person, as they may direct, all the Estate, Interest, or Property of such Grantor or Donor in such Land or Property or any Part thereof, for or towards providing a Church, or a Fund for the repairing of the Fabric of any Church, or a Site for a Church, Churchyard, or Burial Ground for any Parish, District, or Place, or for or toward the Endowment or Augmentation of the Income of the Incumbent or Minister, or to provide a Fund for the Payment of any Stipendiary or Assistant Curates or Curate of any Parish, District, or Place, or for or towards the providing a Residence, with Appurtenances, Garden or Glebe Land, for any such Incumbent or Minister as aforesaid: Provided, that nothing herein contained shall enable any Person being within Age or Non-sane Memory, or any Feme Covert without her Husband to make any such Gift, Grant, or Alienation except as herein-before otherwise provided.

Capacity for Bodies or Persons to grant Land or Property for Endowment.
43 G. 3. c. 108 s. 1.
6 & 7 Vict. c. 37. s. 22.
7 & 8 Vict. c. 94. s. 7.
19 & 20 Vict. c. 104. ss. 4. 27.

Powers not to be exercised by Incumbent without Consent of Bishop and Patron.

156. No Gift or Grant of Land under this Act belonging to any Benefice with Cure of Souls shall be made without the Consent of the Bishop and Patron.

19 & 20 Vict. c. 104. s. 4.

157. The Commissioners, without any Investigation of Title, may accept or direct to be accepted any Land granted by way of Gift by any Body or Person: Provided, that the Grantor and his Solicitor make a Declaration to the Satisfaction of the Commissioners that such Grantor at the Time of such Gift is seised in Fee Simple in Possession of such Land, free from Incumbrances, and has Power to grant the same.

Commissioners may accept Gifts of Land without investigating Title.

Land or Property to be dealt with according to the Will of Donor. 6 & 7 Vict. c. 37. s. 22.

158. Land or Property so granted and conveyed, devised and bequeathed, shall be applied according to the Will of the Grantor or Donor, as in and by the Deed or Will by which such Land or Property is granted, given, devised, or bequeathed may be expressed, or, in the Case of no Deed or Will, as may in some other Manner be directed, and in default of such Expression or Direction then in such Manner as shall be determined by a Scheme and Order in Council.

Grants of Land to extend to Enfranchisement. 58 G. 3. c. 45. s. 36.

159. The Powers herein-before contained for granting and conveying Land shall extend to authorize the Enfranchisement of Land, or the Release of any Right, Estate, or Interest in such Land.

Plots of Land not exceeding One Acre held in Mortmain may be annexed to a Church, &c., and may be granted either by Exchange or Benefaction. 43 G. 3. c. 108. s. 4.

160. Every Body Politic or Corporate, sole or aggregate, may, with or without Confirmation, as the Case may require, give and grant to any Body or Person, either by way of Exchange or Benefaction, any small Plot of Land held in Mortmain, not exceeding One Acre, for the Purpose of annexing the same, with the Consent of the Incumbent, Patron, and Bishop, to any Church, House of Residence, Churchyard, or Curtilage thereto belonging, to which such Plot of Land may lie convenient, or for the Purpose of providing a Site for any Church or House of Residence for the Incumbent or Minister of any Church.

Any Person having the Fee Simple of any Manor may grant Five Acres of the Waste for a Site for a Church, &c. 51 G. 3. c. 115. s. 2.

161. Any Body or Person seised in Fee Simple of any Manor may, by Deed enrolled in the Court of Chancery, give or grant to the Incumbent or Minister of any Parish, District, or Place, and his Successors, any Land not exceeding in the whole the Quantity of *Five Acres*, Parcel of the Waste of such Manor, and lying within such Parish, District, or Place, for the Purpose of erecting thereon or enlarging any such Church, or for a Churchyard or Burying Ground, or enlarging a Churchyard or Burying Ground, for such Parish, District, or Place, or for a Glebe for such Incumbent or Minister, or to erect a House of Residence or other Buildings thereon, or make other Conveniences for the Residence of such Incumbent or Minister, discharged from all Rights of Common thereon.

Grantors or Donors may make Conditions on Sale or Gift of Land. 58 G. 3. c. 45. s. 51.

162. In the Case of any Sale or Gift of Land or Property to the Commissioners for any of the Purposes of this Act, the Body or Person selling or giving may make such Conditions as to the Disposition thereof as may be agreed upon between the Commissioners and such Body or Person.

Land given for a Residence not to exceed Ten Acres. 58 G. 3. c. 45, s. 33.

163. The Quantity of Land that may be granted by way of Gift under this Act to the Commissioners, or to such Body or Person as they

they may direct, or which they may acquire by Purchase or Exchange under this Act, for the Residence, Garden, and Appurtenances of the Spiritual Person serving any Church, shall not exceed Ten Acres.

Land acquired by Purchase or Exchange not to exceed Five Acres. 1 & 2 Vict. c. 107. s. 9.

164. No Grant by way of Gift and no Devise or Bequest for the Purpose of this Act to any Body or Person other than the Commissioners, or such Body or Person as they may direct, shall exceed Five Acres in Land or the Value of Five hundred Pounds in Money or Goods and Chattels, to be laid out bringing Land into Mortmain, and it shall be lawful for the Lord Chancellor, on Petition, to make Order for reducing any such Gift, Devise, or Bequest that may exceed such Limits to and within such Limits, and for allotting such specific Five Acres, and, if Occasion should require, such specific Goods and Chattels, as in his Judgment shall be most convenient, or to make such other Order touching the Premises as to him shall appear just.

Persons, by Deed or Will, without the Intervention of the Commissioners, may give or grant Lands not exceeding Five Acres on personal Property not exceeding 500*l.* for certain Purposes. 43 G. 3. c. 108. s. 1.

165. No Glebe containing upwards of Fifty Acres shall be augmented with more than One Acre by any Grant by way of Gift, or by any Devise made under this Act, to any Body or Person other than the Commissioners, or such Body or Person as they may direct; but the Excess, if any, so given or devised for such Augmentation shall be reduced as aforesaid by the Lord Chancellor, and such Order thereupon shall be by him made as herein-before is directed in the Case of an Excess beyond Five Acres.

No Glebe of Fifty Acres shall be augmented with more than One Acre. 43 G. 3. c. 108. s. 3.

166. Every Instrument of Conveyance by which any Land is granted and conveyed under this Act shall be registered in the Registry of the Diocese within which such Land is locally situated.

Deeds to be enrolled. 3 & 4 Vict. c. 60. s. 5. 6 & 7 Vict. c. 37. s. 22.

167. Such Instruments of Conveyance may be made according to the Form following, or in such other Form as the Case may require; (that is to say,)

Form of Conveyance to the Commissioners. 58 G. 3. c. 45. s. 37. 3 G. 4. c. 72. s. 2. 1 & 2 Vict. c. 107. s. 6.

'I *or* We [*or the Title of a Corporation*], under the Provisions of "The Church Building and New Parishes Act, 1863," do hereby voluntarily [*or, if for a valuable Consideration, omit* "voluntarily," *and insert* "in consideration of the Sum of (*stating the Amount*) to me *or* us *or* the (*Title of a Corporation,*) paid,] convey [*by the Direction of the Ecclesiastical Commissioners,* if the Case shall require,] all [*describing the Premises to be conveyed*], and all [my *or* our] Interest in the same, *or* all the Interest in the same of the [*Title of a Corporation*] to [*the Grantee, his Heirs or Successors, and Assigns*], for the Purposes of the said Act, as a Site for [*as the Case may be*], and to be devoted, when consecrated [*if the Conveyance of a Parsonage House, or if a Site for a Garden*

'*a Garden or Glebe, the Words* "when consecrated" *to be omitted*], to 'Ecclesiastical Purposes for ever.

'In witness whereof, *&c.*'

Assent of Commissioners to be testified by their Seal. 8 & 9 Vict. c. 70. s. 24.

168. No Instrument by which any Conveyance shall be made to the Commissioners, or to such Body or Person as they may direct under this Act, shall be valid, nor be registered in the Registry of any Diocese, unless and until the Assent thereto of the Commissioners be testified under their Common Seal, and after such Seal is affixed such Conveyance shall take effect as from the making thereof.

Property conveyed for the Site of any Church not to be questioned after Five Years. 3 G. 4. c. 72. s. 29. 1 & 2 W. 4. c. 38 s. 17.

169. Upon the Expiration of Seven Years after the taking effect of any Devise, or the Conveyance to any Body or Person under this Act, of any Land intended for the Site of a Church, such Land, if any Church shall have been erected thereon, shall remain absolutely vested in the Body or Person to whom the same was so conveyed, their or his Successors, Heirs or Assigns, for the Purpose for which the same was so devised or conveyed, free from all Estate, Title, or Claim of every other Body or Person; and the Claim, if any, of such last-mentioned Body or Person shall be against the Person receiving the Purchase Money or against the Representatives of that Person.

So much of 17 Car. 2. c. 3. as enables Impropriators to augment (repealed by 1 & 2 Vict. c. 106. s. 15.) revived. 6 & 7 Vict. c. 37. s. 25.

170. So much of an Act that was passed in the Seventeenth Year of the Reign of King Charles the Second, intituled "An Act for "uniting Churches in Cities and Towns Corporate," as enabled any Owner or Proprietor of any Impropriation, Tithes or Portion of Tithes, to annex the same or any Part thereof unto the Parsonage, Vicarage, or Curacy of the Parish Church or Chapel where the same lie or arise, or to settle the same in trust for the Benefit of such Parsonage, Vicarage, or Curacy, and authorized Parsons, Vicars, or Incumbents to receive Lands, Tithes, or other Hereditaments without Licence of Mortmain, shall continue in force, notwithstanding any Repeal of such Act contained in the Act passed in the First and Second Years of the Queen, Chapter One hundred and six, and all Augmentations and Grants at any Time heretofore made under the said Act of King Charles the Second, or under the Act of the Sixth and Seventh Years of the Queen, Chapter Thirty-seven, shall be valid.

Tender of Amends where Land improperly conveyed. 1 & 2 W. 4. c. 38. s. 7.

171. If any Body or Person to whom any Land shall have been conveyed for the Purposes of this Act shall, within *Two* Months after any Judgment in Ejectment shall have been obtained against him for such Land, tender or pay to the Plaintiff in such Ejectment his Costs on such Ejectment, and such Sum of Money as a Jury in the Manner herein mentioned shall find to have been the Value of such Land at the Time when the same was conveyed for the Purposes of the former Church

Church Building Acts or this Act, such Land shall be absolutely vested in such Body or Person.

The Jury who shall try any Ejectment, or a Jury under a Writ of Inquiry, shall ascertain the Value of the Premises. 1 & 2 W. 4. c. 38. s. 18.

172. The Jury who shall try any Ejectment brought for the Recovery of any Lands conveyed for the Purposes of the former Church Building Acts or this Act, or, if Judgment in Ejectment have been obtained by Default, a Jury under a Writ of Inquiry (which Writ of Inquiry the Court in which such Action is brought is hereby empowered to issue) shall ascertain the Value of such Land at the Time when it was so conveyed, and the Value so found shall be indorsed by the Judge who tried the Ejectment on the Postea, or shall be returned to the Court by the Sheriff or Under Sheriff or other Person before whom any Writ of Inquiry is executed in the same Manner as other Inquests are returned on Writs of Inquiry.

The Duke of Cornwall, Commissioners of Woods and Forests, &c. may give Materials for building Churches, &c. 59 G. 3. c. 134. s. 20.

173. It shall be lawful for the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, with the Consent of the Commissioners of Her Majesty's Treasury, in Writing, or for Her Majesty by any Grant signed by the Chancellor of the Duchy of Lancaster for the Time being, or, if there be no Duke of Cornwall, by any Grant signed by the Commissioners of Her Majesty's Treasury, or for the Duke of Cornwall, if of full Age, or the Council of His Royal Highness during his Minority, or for any Body Corporate or Collegiate, or Corporation Aggregate or Sole, to give and grant any Stone, Slate, or Timber, or other Materials from any Quarries, Forests, or Wastes belonging to Her Majesty or the Duke of Cornwall, or any such Body respectively, for or towards the building, rebuilding, enlarging, or increasing the Accommodation of any Church under the Provisions of this Act, or building any House or Appurtenances for the Residence of a Spiritual Person, or fencing any Garden to be annexed to such Residence, or enclosing any Churchyard.

Treasury may remit Duties of Customs or Excise on Materials used for the building of Churches, &c. 59 G. 3. c. 134. s. 21. 3 G. 4. c. 72. s. 27.

174. It shall be lawful for the Commissioners of Customs and Inland Revenue respectively, with the written Consent of the Commissioners of Her Majesty's Treasury, to remit all or any Proportion of the Duties of Customs or Excise, or to order the same to be drawn back or repaid, in respect of Timber or other Materials which have been or shall be bonâ fide procured for and used in the building, rebuilding, enlarging, or increasing the Accommodation of any Church now or hereafter to be erected, rebuilt, enlarged, or increased in its Accommodation, with the Approbation of the Commissioners, and which Approbation may be at any Time certified under their Common Seal to the Commissioners of Her Majesty's Treasury; and such Duties shall in every such Case be remitted, drawn back, or repaid under such Regulations and in such Manner as shall be directed by the Commissioners of Her Majesty's Treasury.

Deeds and other Instruments not to be subject to Stamp Duty.
59G.3.c.134. s. 35.
3 G. 4. c. 72. s. 28.

175. No Deed of Gift, or Grant, Conveyance, Security, Contract, Agreement, Deed, or other Instrument, made for any of the Purposes or under any of the Provisions of the former Church Building Acts, the former New Parishes Acts, or of this Act, shall be subject to any of the Duties upon stamped Vellum, Parchment, or Paper.

Land conveyed to the Commissioners for Burial Grounds to be consecrated.
59 G. 3. c. 134. s. 38.
8 & 9 Vict. c. 70. s. 14.

176. Any Land of which the Commissioners may have accepted or directed a Conveyance under the former Church Building Acts or this Act, for any Burial Ground, or for the Enlargement of any Burial Ground, shall be, as soon as convenient, consecrated for the Burial of the Dead according to the Use of the United Church.

Land obtained for Burial Grounds to be Part of Parish when not within its Bounds.
3 G. 4. c. 72. s. 26.

177. When any such Land shall be situated out of the Boundaries of the Parish, District, or Place for which the same is intended, the same shall, after Consecration, be Part of such Parish, District, or Place for Ecclesiastical Purposes.

Land conveyed for Churches and Churchyards shall be devoted to Ecclesiastical Purposes.
58 G. 3. c. 45. s. 33.

178. Land granted and conveyed or devised for the Site of, or for enlarging, or improving a Church or Burial Ground or additional Burial Ground for any Parish, District, or Place, shall, when conveyed or devised to the Commissioners, or to such Persons as they may direct, and consecrated by the Bishop, become for ever thereafter devoted to Ecclesiastical Purposes.

Land when consecrated to be freed from all Claims.
19 & 20 Vict. c. 104. s. 10.

179. The Land so granted and conveyed or devised shall, from and after the Consecration thereof, be discharged from all the Estate and Interest of any Body or Person in the same or any Part thereof respectively, subject nevertheless to any Rent that may be reserved thereout, and to the Covenants and Conditions subject to which the same may have been granted and conveyed or devised.

How the Freehold of Sites for Churches, &c. shall vest.
8 & 9 Vict. c. 70. s. 13.

180. The Freehold of the Site of every Church of which the Commissioners may accept or direct a Conveyance shall, when such Church is consecrated, vest in the Incumbent thereof for the Time being; and the Freehold of every Burial Ground of which the Commissioners may accept or direct a Conveyance shall, after the same has been consecrated, vest in the Incumbent for the Time being of the Church to which such Burial Ground shall belong, or if there be no such Incumbent then in the Commissioners or such Body or Person as the Commissioners may, with Consent of the Bishop, direct, until there is an Incumbent, and from and after that Time then in such Incumbent, for the Use of the Inhabitants of the Place for which such Burial Ground was acquired.

181. The

Freehold of Residence House and Glebe to vest in Incumbent. 58 G. 3. c. 45. s. 33. 8 & 9 Vict. c. 70. s. 13.

181. The Freehold of any Residence, House, Garden, and Glebe Land, or Land intended to be used for such Purposes, of which the Commissioners may accept or direct a Conveyance, or which may be devised to them, shall, immediately after such Conveyance or Devise, and if such Church be not then consecrated when the same shall be consecrated, vest in the Incumbent thereof for the Time being.

Apportionment or Release of Quit-rents, &c. 3 G. 4. c. 72. s. 9. 14 & 15 Vict. c. 97. s. 27.

182. When any Quit, Chief, or other Rent or other annual or recurring Charge is payable out of any Hereditaments, a Part whereof has been acquired under the former Church Building Acts or shall be acquired under this Act, it shall be lawful for the Body or Person giving or selling such Part of such Hereditaments to apportion such Rent or charge, with the written Consent of the Owner thereof, in such Manner as the Commissioners deem expedient, and to charge one Part thereof on the Hereditaments conveyed under the former Church Building Acts or under this Act, and the other Part thereof on the Remainder of the Hereditaments charged therewith; and the several portions of such Rent or Charge so apportioned which may be charged on the Hereditaments so conveyed under the former Church Building Acts or this Act, and the Remainder of the Hereditaments originally charged respectively shall in all respects, as far as Circumstances will admit, be recoverable from or out of the Hereditaments so conveyed and the Remainder of the Hereditaments originally charged respectively, in the same Manner as the original Rent or Charge was recoverable from or out of such Hereditaments or any Part thereof.

Entire Rent may be charged upon a Part of the Hereditaments. 14 & 15 Vict. c. 97. s. 27.

183. If the Part of the Hereditaments so charged which is not so acquired be, in the Opinion of the Commissioners and of the Body or Person having Power to sell or give the other Part of such Hereditaments, and of the Owner of such Rent or Charge, of ample Value to bear the whole of such Rent or Charge, then such Part of the Hereditaments as may be conveyed to the Commissioners may be conveyed free from such Rent or Charge, and the Remainder of the Hereditaments shall continue liable to the whole thereof, in the same Manner as the whole of the Hereditaments were originally liable, and the Commissioners are hereby authorized to do all Acts necessary for giving full Effect to such Apportionment, Discharge, and Charge.

Fines for Renewals at the Time of Lands, &c. taken shall be paid to the Person entitled to renew. 3 G. 4. c. 72. s. 4.

184. If any Land or any Interest arising out of the same be given, sold, or surrendered, under this Act, by any Body or Person, and in respect of which any such Body or Person shall be entitled to take any Fine upon the Renewal of any Lease of such Land, the Amount of the Value of the Interest of such Body or Person which would arise out of the Renewal of the Lease if the same were renewed at

at the Time of such Land being so given, sold, or surrendered, shall be paid to the Body or Person entitled thereto out of the Principal Sum ascertained under this Act as the Value of such Land, and the Remainder of such Principal Sum shall be applied under this Act.

Rents and Fines may be apportioned. 17 & 18 Vict. c. 32. ss. 1. 8.

185. If any Hereditaments to be acquired for any of the Purposes of this Act are included in a Lease or Underlease with other Hereditaments, the Rent reserved by such Lease or Underlease, and any Fine certain to be paid on any Renewals thereof, may be apportioned between the Hereditaments so to be acquired and the Remainder of the Hereditaments, or may be wholly charged on such Remainder, in exoneration of the Hereditaments so to be acquired.

Parties to such Apportionment. 17 & 18 Vict. c. 32. s. 2.

186. Such Apportionment or Exoneration may be effected by the Parties respectively having Power to assign or convey the Leasehold Interest, and to assign or convey the Reversion expectant on such Leasehold Interest, in the Hereditaments so to be acquired.

Jury may apportion Rent or Fine. 17 & 18 Vict. c. 32. s. 3.

187. In Cases where the Value of the Hereditaments to be acquired is to be ascertained by a Jury the Jury may also apportion any such Rent or Fine as aforesaid.

How Sums of Money secured by way of Insurance, &c., may be apportioned. 17 & 18 Vict. c. 32. s. 5.

188. Sums of Money to be secured by way of Insurance, and all other Sums of Money or other Payments or Services, may be apportioned or exclusively charged in the same Manner and with the same Effects in all respects as are herein provided with reference to the Apportionment or exclusive Charge of Rent.

Apportioned Rent to be recoverable by the same Remedies as the entire Rent. 17 & 18 Vict. c. 32. s. 4.

189. On the acquiring of any Hereditaments included with other Hereditaments in a Lease or Underlease, the Rent, Sums of Money, or other Payment, or Service or apportioned Part thereof, by any such Apportionment or Exoneration expressed to be made payable out of the Hereditaments which shall not be so acquired, and out of the Hereditaments which shall be so acquired respectively, shall be recoverable as regards such Hereditaments respectively by the same Remedies by which, before such Hereditaments were acquired, the Rent, Sum of Money, or other Payment or Service reserved or made payable by the Lease or Underlease was recoverable out of the whole of the Hereditaments therein comprised.

Covenants to be apportioned. 17 & 18 Vict. c. 32. s. 4.

190. The Covenants, Conditions, and Agreements in such Lease or Underlease, so far as regards the Part acquired and the Residue not so acquired respectively of the Hereditaments comprised in such Lease or Underlease, shall continue and subsist with regard to such Part so acquired and such Residue respectively in like Manner as if such

such Part or Residue only had been originally comprised in such Lease or Underlease, but so nevertheless that the Rents to which such Covenants relate shall be deemed to be only the apportioned Rentcharge under the Provisions herein-before contained upon such Part or Residue.

Fines for Renewal to be apportioned. 17 & 18 Vict. c. 32. s. 4.

191. In case such Lease or Underlease contain Provisions for Renewal upon Payment of a Fine certain, such Provisions for Renewal shall apply to the Part acquired and the Residue not so acquired respectively of the Hereditaments comprised in such Lease or Underlease, in the same Manner as if such Part or Residue only had been originally comprised in such Lease or Underlease, and the Fine certain to be paid on any Renewal had been the Fine certain which in the Exoneration or Apportionment shall be expressed to be payable in respect of the same Hereditaments.

Contracts for Leases and Underleases, and where no Rent or a nominal Rent only is reserved. 17 & 18 Vict. c. 32. ss. 6, 7, 8.

192. The Provisions of this Act herein-before contained relating to Leases and Underleases shall extend to Contracts for Leases and Underleases as well as to Leases and Underleases, and to all Cases where a Part of the Hereditaments included in any such Lease or Underlease is to be acquired for the Purposes of this Act, although no Apportionment or Exoneration from Rent may take place by reason that no Rent or a Rent only nominal is reserved by such Lease or Underlease.

Purchase Money of Lands sold under 58 G. 3. c. 45., and belonging to an Incumbent in right of his Living, may be applied by the Governors of Queen Anne's Bounty for the Augmentation of Benefice. 8 & 9 Vict. c. 70. ss. 20, 21.

193. Whenever Land belonging to an Incumbent in right of his Church is conveyed by him by way of Sale under this Act the Purchase Money shall be paid to the Governors, and be applied by them for the Benefit and Augmentation of such Benefice, in the same Manner and with the same Powers of Investment in the Purchase of Land, and Exchange for other Land, as if the Money so appropriated had been originally provided or appropriated by the Governors, out of the Funds at their Disposal, for the Benefit and Augmentation of the same Benefice; and the Receipt in Writing of the Treasurer for the Time being of the Governors for such Money shall effectually discharge the Persons paying such Money from all Liability in respect thereof.

Compensation for Waste Ground to whom to be paid. 19 & 20 Vict. c. 104. c. 28.

194. When, upon the Conveyance of any Waste Grounds of any Manor, any Compensation shall be payable in respect of any Rights of Common therein, such Compensation shall be paid to and shall be received by the Churchwardens of the respective Parishes wherever such Waste Grounds are situate, and be applied for such general Purposes within such Parish as a Vestry to be convened for that Purpose shall direct, and if there be no Vestry then as the Commissioners shall direct.

If Body or Person giving or selling Land be under Disability, Purchase Money, if exceeding 20*l.*, may be paid into the Bank of England or to Trustees. 58 G. 3. c. 45. s. 45. 8 & 9 Vict. c. 70. s. 19.

195. If any Money to be paid for any Land granted or conveyed by any Body or Person who may be under any Disability or Incapacity shall exceed the Sum of *Twenty Pounds*, the same shall be paid into the Bank of England, in the Name and with the Privity of the Accountant General of the Court of Chancery, and be placed to the Account of the Body or Person for the Time being entitled to the Rents and Profits of such Land, or of their Guardians, Trustees, or Committees, in case of Infancy or Lunacy, or the same Money shall, at the Option of the Body or Person to whose Account such Money would be so placed (and with the Consent of the Commissioners, in case the same shall exceed *Two hundred Pounds*), be paid to *Three* Trustees, to be nominated by the Body or Person making such Option, and approved of by the Commissioners, such Nomination and Approbation to be signified in Writing.

Application and Investment of such Money. 58 G. 3. c. 45. s. 44.

196. Such Money, if so paid into the Bank of England, shall, by Order of the Court of Chancery, made upon a Petition by the Body or Person who would have been entitled to the Rents and Profits, or if paid to Trustees as aforesaid then shall, at the Discretion of such Trustees, be applied either in the Purchase of the Land Tax, or towards the Discharge of any Debt or other Incumbrance, as such Court or Trustees may direct, affecting the same Lands or other Land settled therewith to the same or like Uses and Trusts, or may be invested in the Purchase of other Land, to be conveyed to and upon such Uses, Trusts, and Purposes as the Land so sold, or such of them as shall be then subsisting and capable of taking effect; and such Money shall in the meantime be invested in the Purchase of Three Pounds per Centum Bank Annuities, and the Dividends thereof shall be paid to the Body or Person who would be entitled to the Rents and Profits of the Land hereby directed to be purchased if such Purchase were made.

Commissioners may make special Directions as to Investment of such Money. 58 G. 3. c. 45. s. 45.

197. When any such Money is paid to Trustees the Commissioners may make such special Provisions for the Investment thereof, and for the Appointment of new Trustees thereof, or otherwise as they think fit.

Application of such Purchase Money if not exceeding 20*l.* 58 G. 3. c. 45. s. 46.

198. If such Money to be paid for such Land so granted and conveyed shall not exceed *Twenty Pounds*, the same shall be applied to the Use of the Body or Person for the Time being entitled to the Rents and Profits of the Land so taken, or in case of the Infancy or Lunacy of any such Person, then to his Guardian, Trustee, or Committee, for the Benefit of such Person.

199. The

Commissioners may exchange, on receiving Lands. 3 G. 4. c. 72. s. 34. 3 & 4 Vict. c. 60. s. 19.

199. The Commissioners, with the Consent of the Grantor or Devisor of such Land, his Heirs or Successors, (which Consent he and they, notwithstanding any Incapacity or Disability, is and are hereby empowered to give,) may exchange any Land or any Part of any Land granted and conveyed by way of Gift or Devise, under the former Church Building Acts, New Parishes Acts, or this Act, which has not been consecrated, and is not required for the Purposes of this Act, but which remains vested in the Commissioners, for any other Land which may in their Judgment be more eligible for the Purpose for which the same was granted or devised, or may apply such Land or such Part thereof to any other Ecclesiastical Purposes, either as Glebe Land or otherwise, for the Use of the Incumbent of the Parish, District, or Place, or for the Purpose of any Parochial or Charitable School, or any other charitable or public Purpose relating to any such Parish, District, or Place, or may re-convey such Land or any Part thereof to the Grantor or Devisor thereof, his Heirs or Successors, without requiring any Consideration for such Re-conveyance.

Incumbent, &c. may hold Land for Repairs of Church or Chancel.

200. The Incumbent and Churchwardens of any Parish, District, or Place may accept and hold to themselves and their Successors any Land or Property which any Body or Person can by Law give or grant for the Repairs of the Church or Chancel thereof, and any Land or Property so given or granted shall for ever thereafter be vested in the Incumbent and the Churchwardens for the Time being of such Parish, District, or Place, and be by them applied according to the Terms and Conditions of the Gift or Grant.

Trustees may convey Land for the foregoing Purposes.

201. Any Trustees of any Land or Property which may have been given or granted by Will or Deed for any of such Purposes exclusively relating to any Parish, District, or Place, may, by an Instrument in Writing, transfer such Land or Property to the Incumbent and Churchwardens of such Parish, District, or Place, and their Successors, and such Instrument of Transfer shall effectually vest all the Estate and Interest of such Trustees in such Land or Property in the Incumbent and Churchwardens for the Time being of such Parish, District, or Place, subject to the Trusts and Conditions contained in such Will, Deed, or Instrument of Transfer.

Reconveyance of Land conveyed to Commissioners for the Site of a Church on Failure to build

202. If no Church shall have been built upon any Land conveyed or devised to the Commissioners for the Site of a Church within Seven Years from the Date of such Conveyance or Devise, the Body or Person who would have been at the Expiration of such Period entitled to the Land in case the same had not been so conveyed or devised shall be entitled to claim from the Commissioners the

such Church within Seven Years from Date of Conveyance.

Re-conveyance to them or him of such Land, released from the Obligation of building such Church, but subject to the same Uses, Trusts, and Limitations (if any) to which it would have been subject if it had not been so conveyed or devised; and if such Land was originally conveyed to the Commissioners, then upon the same Terms upon which the same was so conveyed.

Commissioners empowered to resell Lands not wanted for this Act. 58 G. 3. c. 45. s. 51.

203. The Commissioners may, by Instrument under their Common Seal, grant and convey by way of absolute Sale, for a Consideration in Money, any Land or any Part of any Land granted or conveyed by way of Sale under the former Church Building Acts, the former New Parishes Acts, or this Act, which has not been consecrated, and remains vested in the Commissioners, and apply the Proceeds thereof to the Purposes of this Act.

First Offer of Resale to be made to the Persons of whom the Lands were bought. 58 G. 3. c. 45. s. 51.

204. The Commissioners shall, before making any such Sale, first offer to convey such Land or such Part thereof to the Body or Person who would have been then entitled to the Land in case the same had not been purchased by the Commissioners, upon the same Terms for which the same was originally granted and conveyed to the said Commissioners.

Where such Persons refuse to purchase, or cannot be found, &c. 58 G. 3. c. 45. s. 51.

205. If such Body or Person refuse, or do not, within *Six Weeks* after such Offer, signify their or his Desire to the Commissioners to purchase such Land or such Part thereof, or if they or he cannot after Inquiry be ascertained or found, a Declaration in Writing made by some indifferent Person before a Master Extraordinary of the High Court of Chancery, or before a Sheriff or a Justice of the Peace for the County where such Land is situate, stating that such Offer was made by or on behalf of the Commissioners, and that such Body or Person refused to purchase such Land, or did not accept such Offer within *Six Weeks* from the Time when the same was made, or that the Body or Person entitled to the Right of Pre-emption could not after Inquiry be ascertained or found, shall in all Courts be sufficient Evidence of the Facts therein stated.

Exchanges, Reconveyances, &c. to be by Deed. 58 G. 3. c. 45. s. 51.

206. All such Exchanges or Conveyances, or Conveyances from the Commissioners, shall be valid; and the Receipt by One of the Joint Treasurers of the Commissioners shall be a sufficient Discharge for any Purchase Money for which any such Land not so required is sold.

"The Lands Clauses Consolidation Act, 1845,"

207. For the Purpose of facilitating Purchases by the Commissioners, "The Lands Clauses Consolidation Act, 1845," except the Provisions of that Act "with respect to the Purchase and taking of Lands

Lands otherwise than by Agreement," shall be incorporated with this Act; and in the Construction of this Act and of the said incorporated Act this Act shall be deemed to be the Special Act; and the Expression "the Promoters of the Undertaking," where used in the said Lands Clauses Consolidation Act, shall mean "The Ecclesiastical Commissioners for England."

partly incorporated, and extended to Exchange.

PART XI.

Apportionment and Surrender of Endowments.

208. The Commissioners may, with the Consent of the Bishop, the Patron, and Incumbent of the Church of any Parish, apportion any Sum arising from a permanent Endowment belonging to such Church and applicable to the Repair and Maintenance thereof, to the Repair or Maintenance of any Church situated within the original Limits of such Parish.

Commissioners may apportion Endowment. 19 & 20 Vict. c. 104. s. 31.

209. In Cases where any Parish shall have been or shall hereafter be divided into Two or more distinct and separate Parishes, or where any District or new Parish shall have been or shall be constituted or formed out of any Parish, District, or Place, it shall be lawful, by a Representation of the Commissioners and an Order in Council ratifying the same, and with the Consent of each of the respective Patrons and Incumbents of such distinct and separate Parishes, or of such Parish, District, or Place, as the Case may be, to make a Separation and Division of the Glebe Lands, Tithes, Rentcharges, and other Endowments belonging to such distinct and separate Parishes, or to such Parish, District, or Place, and to annex and resettle the same to and for the Benefit of such distinct and separate Parishes, or of such Parish, District, or Place, and the District or new Parish constituted or taken thereout in such Manner and Proportions as may be determined by such Order in Council.

Resettlement of Endowments in divided Parishes. 19 & 20 Vict. c. 104. s. 26.

210. The Powers given by the Acts of the Session holden in the First and Second Years of King William the Fourth, Chapter Forty-five, and the Session of the Seventeenth and Eighteenth Years of Her present Majesty, Chapter Eighty-four, to Rectors and Vicars, for the Augmentation of Chapels of Ease, Parochial Chapels, District Churches or Chapels, and any Chapels having Districts assigned thereto, shall be held to authorize the Incumbent of any Parish, District, or Place to make such Augmentation as therein is mentioned in favour of any Parish, District, or Place wholly or in part formed

Incumbents of original Parishes may augment Parishes, &c. formed thereout.

formed out of such first-mentioned Parish, District, or Place, or in favour of the Incumbent thereof; provided that the Exercise of such Powers shall be subject to the like Consents (to be signified in the same Manner) as is required by such Act.

Incumbents of new Parishes, &c. may enforce Payment of Tithes, Revenues, &c.

211. The Incumbent for the Time being of the Parish, District, or Place in favour of which such Augmentations shall be made shall have the same Remedies for enforcing Payment of any Tithes or Revenues annexed, or any annual Sum of Money granted or charged under this Act, as is provided by the Section lastly mentioned with respect to Augmentations made thereunder; and all Rates and Charges payable in respect of such Augmentations shall be borne by such Incumbent.

Apportioned Part of Endowments and Charges attached to any distinct and separate Parish to belong to the Incumbent.

212. An Apportionment of the Glebe Lands, Tithes, and other Endowments or Emoluments of any Parish, District, or Place may at any Time, with the Consent of the Bishop and of any Patron whose Interest is affected thereby, be made by a Representation of the Commissioners, and an Order of Her Majesty in Council, in favour of any new Parish or District Chapelry formed wholly or in part out of such Parish, District, or Place, whether any such Glebe Lands, Tithes, Endowments, or Emoluments are locally situate or arise or accrue within the new Parish or District Chapelry or not, and the Glebe Land, Tithes, Endowments, or Emoluments so apportioned in favour of the new Parish or District Chapelry shall belong to and be recoverable by the Incumbent thereof, in like Manner in every respect as they were before recoverable by the Incumbent of the original Parish, District, or Place out of which such new Parish or District Chapelry was formed; and the Incumbent of such new Parish or District Chapelry shall be subject to all Rates and other Charges to which the Incumbent of such original Parish, District, or Place would have been liable in respect thereof.

Time when Order in Council for Formation of a new Parish is to take effect.

213. The Order in Council for or so much thereof as relates to such Apportionment shall not take effect until the Avoidance of the Church of the Parish, District, or Place out of which such new Parish or District Chapelry is formed which shall next happen after the making of such Order, unless with the Consent in Writing of the Incumbent of such Church (which Consent may be given either before or after the Date of such Order), or unless such Order in Council be made, and the Consent of the Patron to the Representation of the Commissioners for such Apportionment be given, during any Avoidance of such Church, in which last-mentioned Case such Order in Council shall take effect from and after the making thereof.

214. If

When divided Parish becomes a Rectory. 19 & 20 Vict. c. 104. s. 26.

214. If upon or after any such Resettlement of Endowments, the whole of the Ecclesiastical Dues arising within the Limits of any Parish, District, or Place, consisting of any Prædial or Rectorial Tithe, shall become and be made payable to the Incumbent of such Parish, District, or Place, such Parish, District, or Place shall thereupon become and be a Rectory, and such Incumbent the Rector thereof.

Endowed Charities may be apportioned on the Formation of new Parishes or Districts. (Vide 18 & 19 Vict. c. 124. ss. 10–13.)

215. Where any new Parish or Ecclesiastical District has or shall have been formed either wholly or partly out of any Parish, District, or Place entitled to the Benefit of any endowed Charity, not being an Endowment applicable to the Repair or Maintenance of a Church, the Board of Charity Commissioners for England and Wales may by their Order apportion between such new Parish or Ecclesiastical District, or [*as the Case may require*] between any Portion thereof taken from the Parish, District, or Place entitled as aforesaid, and the Remainder of the same Parish, District, or Place, all or any Part of the Endowments or Income of such Charity, if the same shall in their Judgment be properly apportionable, and in such Manner as upon Consideration of the Purposes of the Charity the comparative Numbers of the Populations between whom the Apportionment shall be made or other Circumstances they shall think fit, and they may appoint separate Trustees of any Part or Parts of the Endowment or Income of any such apportioned Charity, for the Management and Application thereof according to such Apportionment; the said Board may also determine what Costs, if any, incidental to any such Apportionment, shall be paid from all or any Part of the Endowments or Income of the Charity the Subject thereof, and to what Parties, and may empower and direct the Trustees to raise and pay the same Costs accordingly out of the Property or Funds charged therewith; and all Orders made by the said Board under the foregoing Enactments shall be enforceable by the same Means by which any other their Orders may be legally enforced.

Notices to be given of Orders of Apportionment.

216. The said Board, before making any Apportionment or Appointment under the foregoing Enactments, shall give such public Notice of their Intention to make the same as is required to be given by them of their intended Establishment of any Scheme or Appointment of any Trustees under their general Authorities, and they shall in like Manner receive and consider all Objections to the proposed Order, and all Suggestions for the Variation thereof, which shall be made or transmitted to them within a proper Period to be prescribed by such Notice.

Orders of Apportionment in certain Cases to be subject to Appeal.

217. Any Order which shall be made by the said Board under the foregoing Enactments for the Apportionment of any Charity of which the gross annual Income shall exceed *Fifty* Pounds shall be subject to appeal by Petition to be presented to the High Court of Chancery by Her Majesty's Attorney General within *Four* Calendar Months next after the Date of such Order, and not otherwise.

How the apportioned Debts and Charges are to be raised and paid. 8 & 9 Vict. c. 70. s. 22.

218. Debts or Charges so apportioned shall be raised and paid by the Parish, District, or Place to which they may be apportioned, in the like Manner as the Entirety was to be raised and paid, or in such Manner and under such Conditions as such Court shall direct, and if any Securities have been given for the same such Court may order new Securities to be given for the apportioned Debts.

Apportionments to be registered in the Registry of the Diocese. 8 & 9 Vict. c. 70. s. 22.

219. Such Apportionments and resettling of Endowments and of Charitable Gifts, Debts, and Charges shall be registered in the Registry of the Diocese in which any Parish, District, or Place to which they relate is locally situate, and Copies thereof shall be deposited with the Churchwardens of each such Parish, District, or Place.

PART XII.

Pews, Pew Rents, and Free Seats.

Accommodation to be provided for Persons resorting to Church, &c. 43 G. 3. c. 108.

220. In every Parochial Church or Chapel hereafter to be erected ample Provision shall be made for the decent and suitable Accommodation of all Persons, of what Rank or Degree soever, who may be entitled to resort to the same, and whose Circumstances may render them unable to pay for such Accommodation.

Churches built wholly or in part by the Commissioners to be in part arranged in Pews and Residue in Free Seats. 58 G. 3. c. 45. ss. 62. 63. 78. 59 G. 3. c 134. ss. 26. 31. 6 & 7 Vict. c. 37. s. 24. 8 & 9 Vict. c. 70. s. 11.

221. Every Church which shall have been built, acquired, or appropriated under the former Church Building Acts or this Act shall, in such Manner as the Commissioners, with the written Consent of the Bishop, and in the Case of a Church the Patronage whereof has been declared under the former Church Building Acts with the Consent of the Patrons thereof, may from Time to Time direct, be arranged in Pews and Seats: Such Part of such Pews and Seats as the Commissioners may, with the like Consent, from Time to Time think expedient, may be let for any Term not exceeding One Year, and the Commissioners may make such Order as they may deem expedient as to the Amount of Rent to be reserved for each such Pew and Seat, and such Part of such Pews and Seats as shall not be ordered to be let shall remain and be assigned for Free Seats, to be used by the Parishioners or Inhabitants of the Parish, District, or Place

Place in which any such Church shall be situate: Provided, that the whole Amount of Space heretofore at any Time assigned for Free Seats in any such Church shall not be diminished, and that no Pews shall be let unless it appear to the Commissioners that sufficient Funds cannot be provided from other Sources for the Purposes for which such Pew Rents when received under this Act would be applicable.

Commissioners, with certain Consents, may fix Pew Rents for that Part of a Church which has been rebuilt or enlarged. 59 G. 3. c. 45. s. 59. 59 G. 3. c. 134. s. 40. 19 & 20 Vict. c. 104. s. 6.

222. The Commissioners, with the written Consent of the Bishop and of the Patron and the Incumbent of any Church rebuilt or enlarged, or in which the Accommodation may be otherwise extended under this Act, may fix a Scale of Rents for such of the additional Pews and Sittings in such Church as they may think fit, and may from Time to Time, with the like Consents, vary the same; provided that in respect to the additional Accommodation in such Church so obtained One Half Part thereof at least shall be set apart for Free Seats in the Case of a Parish Church and One Third Part at least in the Case of any other Church.

No Alteration of Scale of Pew Rents, &c. without Consent.

223. After a Church shall have been built, and the Pews and Seats shall have been disposed of and let on a certain Scale, no Alteration of this Scale shall take place without the Consent of the Churchwardens for the Time being, or in case of there being no Churchwardens, then of the Body or Persons having the Patronage of the said Church.

Saving of Rights by Faculty or Prescription.

224. Nothing herein contained shall affect the Rights of Persons holding Pews by Faculty or Prescription.

Pews to be provided for Minister, &c. 58 G. 3. c. 45. s. 75.

225. Where the Commissioners fix a Scale of Pew Rents in any Church, they shall allot a Pew or Seats sufficient to hold Six Persons at least, and the same shall be set apart in the Body or Ground Floor of such Church, and near to the Pulpit, for the Use of the Minister thereof, and other Seats in some convenient Part of such Church, capable of containing not less than Four Persons, for the Use of the Minister's Servants, and for such Pew and Seats no Rent shall be charged.

Seat for Churchwardens. 59 G. 3. c. 134. s. 30.

226. A proper Pew or Seats shall be likewise assigned and provided in every such Church for the exclusive and official Use of the Churchwardens.

Commissioners may, with Consent of Owners, transfer Pew Rights from existing

227. The Right of any Body or Person belonging to or residing in any Parish, District, or Place in which the Commissioners shall have built or aided in building any new Church, or in which any Church has been built, acquired, or appropriated, under the former

Churches to new Churches, for the Purpose of making Free Seats. 3 G. 4. c. 72. s. 23.

Church Building Acts or this Act, to any Pew or Seats in any existing Church, may, with their or his Consent, be transferred by the Commissioners by an Instrument under their Common Seal to the Church of such Parish, District, or Place, for the Purpose of making or increasing the Number of Free Seats in the Church from which such Rights are transferred.

Rights to be preserved on the Transfer of Pews. 3 G. 4. c. 72. s. 23.

228. The Body or Person from whom any Pew has been taken for such Purpose, and to whom any Pew in lieu of their or his former Pew has been assigned in any other Church, shall have the same Right and Title to the Pew so assigned as they or he possessed in their former Pew, without any Faculty, Instrument, or other Process than such Assignment.

Assignment of Pews to be registered in the Registry of the Diocese. 3 G. 4. c. 72. s. 23.

229. Every such Assignment shall be registered in the Registry of the Diocese in which the Church from which such Right to any Pew is so transferred is situate, and a Duplicate thereof shall be deposited in the Chest of the Church, the Pew in which is so assigned.

Pews to be let to the Inhabitants of the Parish, District, or Place. 59 G. 3. c 134. s. 32. 3 G. 4. c. 72. s. 24.

230. The Churchwardens of any Church for which a Scale of Pew Rents shall have been fixed under the former Church Building Acts or this Act shall not let any Pews and Seats except to Inhabitants of the Parish, District, or Place in which such Church is situate, during the Time they continue such Inhabitants, except as herein-after provided.

Notice to be given by Churchwardens of vacant Seats. 3 G. 4. c. 72. s. 24.

231. Notice shall be given by such Churchwardens for Six successive Weeks at the End of each Year of all the Pews which are vacant or will become vacant at the Commencement of the next Year, and of the Rent at which the same will be let, by affixing such Notice in Writing on the Doors of the Church and the Vestry Room thereof respectively.

Where Pews may be let to Persons who are not Inhabitants. 3 G. 4. c. 72. s. 24.

232. All such Pews and Seats as are not taken within Fourteen Days after the Commencement of the ensuing Year at the Rents respectively fixed thereon shall be let to any Inhabitant of any adjoining Parish, District, or Place at the Rent respectively so affixed upon such Pews, for any Term not exceeding the current Year; and at the Expiration of the Year, and also of every succeeding Year in which any such Pews are rented by Inhabitants of any adjoining Parish, District, or Place, such Pews shall be inserted in the List of vacant Pews, and if not taken by any Inhabitant of such Parish, District, or Place, may again be let for any Term, not exceeding the current Year, and so on from Year to Year, to any Inhabitants of any adjoining Parish, District, or Place.

233. Parish-

233. Parishioners subscribing towards the Site or the building of any Church which shall have been or shall be built, acquired, or appropriated under the former Church Building Acts or this Act, shall have the Choice of Pews at the Rates fixed by the Commissioners in the Order of the Amount of their respective Subscriptions, and the Subscribers of the same Amount according to the Priority of their respective Subscriptions.

Choice of Pews by Subscribers. 58 G. 3. c. 45. s. 76. 1 & 2 W. 4. c. 38. s. 21.

234. A Scale of Rents from Time to Time fixed by the Commissioners for Pews and Seats in any Church shall be stated in a Table, under their Common Seal; and every such Table shall be deposited with the Deed of Consecration of the Church, and a Copy of such Table shall be hung up in the Vestry Room of the Church.

Table of Scale of Pew Rents to be deposited in the Church. 58 G. 3. c. 45. ss. 63. 78. 8 & 9 Vict. c. 70. s. 11.

235. Where Pews or Seats are let by the Year the Rent thereof shall be paid every *Six* Months in advance, but where the Term of letting is less than *Twelve* Months, the entire Rent shall be paid in advance; and if the Rent of any Pew or Seat shall be in arrear, then, after Notice in Writing demanding Payment thereof shall have been given to the Renter of such Pew or Seat, the Churchwardens may enter upon and hold such Pew or Seat, or let the same to any Person, as they may think fit, until the Rent so in arrear is satisfied, and any Money to be received by them therefrom during the Continuance of such Arrear shall be applied in or for the Satisfaction of such Rent in arrear, and of all Costs and Charges occasioned by the Non-payment or in the Recovery thereof.

If Rent be in arrear Pews may be sold or let. 58 G. 3. c. 45. ss. 77. 79. 59 G. 3. c. 134. s. 32.

236. All such Rent, Costs, and Charges, or any Balance thereof remaining unsatisfied, may also be recovered by such Churchwardens in any Court of competent Jurisdiction from the Renter of the Pew or Seat, the Name of the "Churchwardens of the Church" [describing the Church], without stating the Christian or Surnames of such Churchwardens; and no Proceeding for the Recovery of such Rent, Costs, and Charges shall abate by reason of the Death, Removal, or going out of Office of any Churchwarden.

Recovery of Arrears of Pew Rents. 58 G. 3. c. 45. s. 79.

237. The Commissioners, under their Common Seal, may discharge any Person giving a Site for or subscribing towards building or providing a Site for any Church, for which the Commissioners are authorized to fix a Scale of Pew Rents, from the Payment, wholly or in part, of Pew Rents in such Church, for a limited Time or for Life, in proportion to the Amount of his Subscription or the Value of the Gift, as the Commissioners deem fit, and may allow any such Subscriber or Donor, if he reside in the Parish, District, or Place in which such Church is situate, to assign, upon his Removal therefrom, his Interest in such Pew or Seat to any other Inhabitant of such Parish, District, or Place.

Commissioners may discharge Subscribers from Payment of Pew Rents in proportion to their Subscription, and allow them to assign. 59 G. 3. c. 134. s. 33. 1 & 2 W. 4. c. 38. s. 21.

 238. Where

Where a permanent Provision satisfactory to the Commissioners is secured in reduction of Pew Rents, Commissioners, with Consent of Bishop, may direct such Pew Rents to cease. 14 & 15 Vict. c. 97. s. 1. 19 & 20 Vict. c. 104. s. 7.

238. Where any Body or Person endows with such permanent Provision in Land or Property as is satisfactory to the Commissioners and the Bishop any Church for which Pew Rents have been previously fixed by the Commissioners, under the Provisions of the former Church Building Acts, or the former New Parishes Acts, or this Act, and where such Pew Rents have not been assigned or appropriated under any Local Act, such Endowment or Provision being made in lieu of and as a Substitute for such Pew Rents, in whole or in part, the Commissioners may, by an Order under their Common Seal, with the Consent of the Bishop, setting forth the Nature of such Endowment, and that it was made for the Object aforesaid, make an equivalent Reduction in the total Amount of the Rents authorized to be taken for the Pews or Sittings in such Church, if the same be not appropriated by Law for specific Purposes, either by a Reduction of the Rate or Scale, or by declaring certain specific Pews or Sittings theretofore chargeable with the Rents to be absolutely free.

Disposal of Pews or Seat so exempted from Rent. 14 & 15 Vict. c. 97. s. 1.

239. Any Pews or Seats so exempted from Rent shall thenceforth be at the Disposal of the Churchwardens of such Church in like Manner as the Pews or Seats of an ancient Parish Church, but the Pew Rents then due and payable shall nevertheless be payable and recoverable in the same Manner as if such Order had not been made.

Commissioners may assign Stipend to the Minister and Salary to the Clerk out of the Pew Rents. 58 G. 3. c. 45. ss. 21. 63. 64. 59 G. 3. c. 134. s. 26. 8 & 9 Vict. c. 70. s. 11.

240. The Produce of the Pew Rents of every Church for which a Scale of Pew Rents shall have been fixed under the former Church Building Acts or this Act shall form a Fund out of which the Commissioners, with the Consent of the Bishop, may assign as a proper Stipend to the Incumbent serving any such Church either a fixed annual Sum or a certain Proportion of such Pew Rents, and a Salary to the Clerk; and if the Commissioners and Bishop do not agree as to the Amount of any such Stipend or Salary, such Amount shall be settled by the Archbishop of the Province.

Where no Appropriation of surplus Pew Rents has been made. 58 G. 3. c. 45. ss. 21. 64. 59 G. 3. c. 134. s. 28. 3 & 4 Vict. c. 60. s. 5. 19 & 20 Vict. c. 104. s. 6.

241. Subject to the Repayment of any Money which may have been or shall be borrowed by way of Loan, Annuity, or otherwise on the Security of the Pew Rents, the Commissioners may, if they deem fit, from Time to Time assign a Part or the whole of the surplus Pew Rents of such Church, accrued or hereafter to accrue, for the Use and Benefit of such Incumbent.

Assignment of Stipend to Minister to be registered. 3 & 4 Vict. c. 60. s. 5.

242. Every such Assignment shall be registered in the Registry of the Diocese.

The Churchwardens to

243. The Pew Rents in any Church for which a Scale of Pew Rents may have been fixed shall, unless otherwise directed by this Act,

Act, be received by the Churchwardens, who shall pay thereout the Stipend from Time to Time assigned to the Incumbent and Clerk thereof.

receive Pew Rents. 59 G. 3. c. 134. s. 26.

244. The Stipend or Salary assigned or to be assigned by the Commissioners, under the Provisions of the former Church Building Acts, or the former New Parishes Act, or this Act, to the Minister and Clerk of any Church the Pew Rents of which have been already or may be hereafter fixed by the Commissioners, shall be paid to such Minister and Clerk respectively, according to the Terms of such Assignment; and the Churchwardens shall, after deducting and paying out of the Pew Rents the actual Expenses of collecting and recovering the same, pay such Stipend and Salary quarterly, so far as the Amount of the Pew Rents received by them will enable them so to do; and in case of a Deficiency occurring in any Year, such Deficiency may be made up out of any future Pew Rents to be received during the same Incumbency.

Stipend and Salary fixed by the Commissioners to be paid to Ministers and Clerks quarterly.

245. Any Surplus of such Pew Rents remaining after Payment of the Stipend of the Incumbent and other Expenses herein-before mentioned, whether such Surplus shall have already accrued or shall hereafter accrue, shall, except in any of the Cases next herein-after mentioned, be invested in Government Securities in the Names of such Trustees, and with such Provisions for the Appointment of new Trustees, as the Commissioners with the Consent of the Bishop may direct, and be suffered to accumulate for building or purchasing a House of Residence, with the Consent and Approbation of the Bishop, for the Incumbent for the Time being of such Church; and the Churchwardens, after Notice given to them by the Bishop that a sufficient Sum for such House of Residence has been provided, shall pay over from Time to Time such surplus Pew Rents to the Incumbent for the Time being of such Church, in augmentation of his Stipend, or shall apply the same to the Increase of the Accommodation in such Church as the Commissioners, with the Consent of the Bishop, may direct.

Surplus Pew Rents may be applied in Purchase of Parsonage House, &c., and Augmentation of Stipend. 59 G. 3. c. 134. s. 26.

246. The Commissioners, with the Consent of the Bishop, may direct that the surplus Pew Rents of any Church for which a Scale of Pew Rents shall have been fixed under the former Church Building Acts or this Act, which shall remain after Payment of such Stipend and other Expenses, shall be applied from Time to Time towards the Repayment of any Money which may be borrowed by way of Loan at Interest, or by way of Annuity or otherwise, for or towards the building any such Church, the Purchase of any Site for the same, the defraying of all Expenses relative thereto, or to the Performance of Divine Service in such Church, and keeping such Church in repair.

Surplus of Pew Rents, after Payment of Stipend, &c., may be applied to the Repayments of Money borrowed. 59 G. 3. c. 134. s. 27.

 247. The

Churchwardens may borrow Money on Credit of surplus Pew Rents. 59 G. 3. c. 134. s. 27. 3 & 4 Vict. c. 60. s. 5.

247. The Churchwardens of any such Church (with the Consent of the Commissioners) may borrow at Interest, or by way of Annuity or otherwise, upon the Credit of the Pew Rents, any Sum of Money for or towards the building of such Church, or purchasing such Site, or defraying the Expenses relating thereto, or keeping such Church in repair, and by Writing under their Hands may charge such Pew Rents, subject to such Stipends and Expenses, with the Payment of the Money so borrowed, and Interest thereon, or with the Payment of such Annuity, as such Churchwardens, with such Consent, may think fit.

PART XIII.

Offices and Officers of the Church, and Fees.

Laws and Customs relating to the Officers of the Church, &c. to apply to all District Churches and new Parishes. 58 G. 3. c. 45. ss. 27. 28. 59 G. 3. c. 134. s. 17. 3 G. 4. c. 72. ss. 17. 18. 1 & 2 W. 4. c. 38. s. 14. 6 & 7 Vict. c. 37. s. 15. 7 & 8 Vict. c. 56. s. 1.

248. The Laws and Customs relating to the Performance of the Offices of the Church, and to the suing for and recovering of Fees, Dues, Offerings, and Emoluments in respect thereof, and to the registering of Baptisms, Marriages, and Burials, and to the Fees in respect of such Registration, shall apply to every new Parish, Chapelry, or other Ecclesiastical District formed under the Provisions of the former Church Building Acts, the former New Parishes Acts, or this Act, in the respective Churches of which such Offices respectively can be performed, and to the Spiritual Persons having the Cure of Souls therein, or serving such Churches, in like Manner as if the same were by Law ancient separate and distinct Parishes and Parish Churches.

No Fee to be received for Baptism. 6 & 7 Vict. c. 37. s. 15.

249. No Spiritual Person shall be entitled to or receive any Fee for the Ministration of Baptism, or for the Registration thereof.

When Marriages can be solemnized in a Church the Bishop of the Diocese to certify the same. 58 G. 3. c. 45. s. 29. 3 G. 4. c. 72. s. 19. 7 & 8 Vict. c. 56. s. 2.

Marriages not to be invalid for Want of such Certificate, if solemnized in the Churches authorized by this Act.

250. Whenever Banns of Marriage may, under this Act, be published and Marriages solemnized in any Church the Bishop of the Diocese within which such Church is situate shall certify the same, and such Certificate shall be kept in the Chest of the Church with the Books of Registry thereof, and a Copy thereof shall be entered in the Books of Registry of Banns and Marriages, and a Duplicate of such Certificate shall be registered in the Registry of the Diocese, and such Certificate shall in all Questions relating to any Banns published or Marriages solemnized in any such Church be received as conclusive Evidence in all Courts, and that the same might, according to Law, respectively be published and solemnized in such Church: Provided, that no Banns or Marriages respectively published or solemnized according to the Laws and Canons in any Church in which the same are by this Act authorized to be respectively published and solemnized shall be illegal or voidable by reason of any such Certificate not having been duly given, registered, or entered, as herein-before required.

251. Upon

Commissioners may authorize Performance of the Offices of the Church in Church of any District. 19 & 20 Vict. c. 104. s. 11.

251. Upon Application of the Incumbent of any Church to which a District shall belong the Commissioners may, with the written Consent of the Bishop, make an Order, under their Common Seal, authorizing the Performance therein of the Offices of the Church or any of such Offices; and all the accustomed Fees arising within the Limits of such District shall be payable and be paid to the Incumbent of such Church.

Reserved Fees to belong to Incumbent of Mother Church until First Avoidance or Relinquishment, then to Incumbent of District. 19 & 20 Vict. c. 104. s. 12.

252. Where all or any Part of the accustomed Fees arising within the Limits of any District, or payable in respect of Marriages, Churchings, and Burials, in the Church thereof shall have been reserved, or, if such last-mentioned Order had not been made, would belong to the Incumbent of the original Parish, District, or Place out of which such District shall have been taken, or to the Clerk thereof, an Account of such Fees shall be kept by the Incumbent and Clerk of such Church, who are hereby respectively required to receive and every *Three* Months pay over the same to the Incumbent and Clerk respectively who would have been entitled to them in case such District had not been formed.

When Fees to Incumbent and Clerk of original Parish shall cease. 19 & 20 Vict. c. 104. s. 12.

253. From and after the next Avoidance of the Incumbency of the original Parish, District, or Place, or the Relinquishment of such Fees by the Incumbent thereof, and with respect to such Clerk after his Office shall become vacant, or after a Compensation in lieu of Fees has been awarded to him by the Bishop, which he is hereby empowered to do, such Reservations shall respectively cease; and all such Fees and Dues shall respectively belong to the Incumbent of the District within which the same shall arise, or to the Clerk of the Church thereof.

Commissioners, with the Consent of the Bishop, &c., may fix Table of Fees for any Parish. 59 G. 3. c. 134. ss. 6. 11.

254. Except when otherwise especially provided, the Commissioners may from Time to Time, with the Consent of the Bishop and of the Vestry or Persons exercising the Powers of Vestry, if there be any such Vestry or Persons, in any Parish, District, or Place, make, fix, and alter a Table of Fees for such Parish, District, or Place.

Table of Fees to be registered.

255. Tables of Fees made under this Act shall be registered in the Registry of the Diocese, and a Copy thereof shall be hung up in the Vestry.

Fees may be sued for. 59 G. 3. c. 134. s. 11.

256. All Fees so fixed or altered may be received, sued for, and recovered by the Spiritual Person or Clerk or Sexton to whom the same shall be payable in like Manner as if the same were ancient legal Fees of a like Nature.

 257. The

Churchwardens to preserve Order, collect Pew Rents, &c. 58 G. 3. c. 45. s. 73. 1 & 2 W. 4. c. 38. s. 16. 8 & 9 Vict. c. 70. ss. 6, 7.

257. The Churchwardens of the Church of every new Parish, and of every Church the Patronage whereof has been vested in the Body or Person building and endowing the same or in their Nominees, or other Church without a District, of the Site of which the Commissioners shall have accepted a Conveyance, shall be admitted to their Office, and shall, in addition to any particular Duties prescribed under this Act, execute all Things pertaining to the Office of Churchwarden, concerning the Repairs of the Church, the Management, good Order, and Decency of Behaviour to be kept and observed in the Church of which they are the Churchwardens by the Congregation thereof.

Churchwardens to continue in Office until their Successors are appointed. 8 & 9 Vict. c. 70. s. 6.

258. The Persons appointed or chosen Churchwardens under this Act shall continue in their Office until others shall be appointed and admitted in their Stead.

Limitation of the Duties of Churchwardens in certain Cases. 8 & 9 Vict. c. 70. s. 8.

259. Such Churchwardens shall not be Churchwardens for any other Duties than those prescribed for them under this Act, but all other legal Duties appertaining to the Office of Churchwardens, with respect to such Parishes, Chapelries, Districts, and Churches, shall be discharged by the Churchwardens who would have discharged the same if this Act had not been passed.

Churchwardens not to be Overseers of the Poor. 8 & 9 Vict. c. 70. s. 8.

260. Churchwardens appointed and admitted under this Act shall not be in consequence of such Office Overseers of the Poor.

Appointment of Clerk. 59 G. 3. s. 134. s. 29.

261. The Clerk, if any, of every Church which shall have been or shall be built, acquired, or appropriated under the former Church Building Acts or this Act, shall be appointed by the Minister for the Time being of such Church, and may be at any Time removed at the Will of such Minister.

Reservation of Fees to existing Clerk and Sexton. 19 & 20 Vict. c. 104. s. 12. 1 & 2 W. 4. c. 38. s. 14. 7 & 8 Vict. c. 56. s. 2.

262. So long as the Persons who at the Time of the Formation of any such Parish or Chapelry were Clerk and Sexton respectively of any Parish, District, or Place out of which such Parish or Chapelry was formed, continue to hold their respective Offices, such Fees, Dues, and Emoluments as they would have been entitled to if such Parish or Chapelry had not been formed shall, unless such Clerk and Sexton have relinquished the same, be accounted for and paid over to them respectively by the Clerk and Sexton of such Parish or Chapelry respectively; but after the Clerk or Sexton of the original Parish, District, or Place respectively shall cease to hold their Offices such Fees, Dues, and Emoluments shall belong to the Clerk and Sexton of the Parish or Chapelry respectively.

PART

PART XIV.

Burials, Churchyards, and Chapels for Performance of the Burial Service.

For Purposes of Burial Acts, every new Parish to be an Ecclesiastical District. 19 & 20 Vict. c. 104. s. 32.

263. For the Purposes of the Acts concerning or regulating the Burial of the Dead, every new Parish shall, subject to the Provisions of an Act passed in the Twentieth and Twenty-first Years of the Queen, Chapter Eighty-one, be held to be an Ecclesiastical District within the Meaning of the said Acts.

Until a Burial Ground is provided for a distinct and separate Parish, &c. Inhabitants may be buried in the original Parish. 7 & 8 G. 4. c. 72. s. 2.

264. Until there be a Burial Ground belonging to any Parish or District, then the Bodies of Persons dying within such Parish or District shall or may (unless Burials shall have been discontinued therein) be interred in the Burial Ground belonging to the original Parish, District, or Place.

No Opening to be made in any Church for Burials, or Graves made in any Churchyard at a less Distance than 9 Feet from the Church.

265. No Body or Person shall, for the Purposes of Burial, break up the Pavement or open the Soil beneath such Pavement, within any Church erected under the former Church Building Acts, the former New Parishes Acts, or this Act, or make any Grave in any adjacent Cemetery or Churchyard thereto, at any less Distance than Nine Feet from the external Walls of such Church; but nothing herein contained shall prevent the Burial of Dead Bodies in any Vault wholly arched with Brick or Stone, which may have been constructed for such Purposes under any Church, and to which the only Access is by Steps on the Outside of the external Walls thereof.

Not to prevent Burials in Vaults. 58 G. 3. c. 45. s. 80.

If any Burial take place or any Grave be made otherwise than is herein provided, forfeit the Sum of 50*l*. 58 G. 3. c. 45. s. 80.

266. If any Burial take place, or any Grave be made, otherwise than is herein provided, the Person making, ordering, or causing the same to be made shall for every such Offence, on summary Conviction thereof before Two Justices of the Peace, forfeit and pay the Sum of *Fifty Pounds*; and in default of Payment thereof the same shall and may be levied and recovered by Warrant under the Hands and Seals of such Justices, by Distress and Sale of the Goods and Chattels of such Offender, rendering the Overplus (if any) to the Owner thereof, of which Penalty *One Moiety* shall be given to the Informer, and the *other Moiety* to the Use of the Poor of the Parish.

Commissioners may alter Fences of Churchyards, and turn Footpaths, &c. 59 G. 3. c. 134. s. 39.

267. The Commissioners may alter, repair, pull down, and rebuild the Walls or Fences of any existing Churchyard or Burial Ground of any Parish, District, or Place, and fence off with Walls or otherwise any additional or new Burial Ground to be set out or provided under this Act, and may also stop up, discontinue, alter, or vary any Entrance or Gate leading into any Churchyard or Burial Ground, and

and the Paths, Footways, and Passages into, through, or over the same, provided the same be done with the Consent of any Two Justices of the Peace of the County, City, Town, or Place where any such Entrance, Gate, Footway, Path, or Passage so to be stopped or altered is situate, and on Notice being given as prescribed by an Act passed in the Session holden in the Fifth and Sixth Years of King William the Fourth, Chapter Fifty, intituled "An Act to consolidate "and amend the Laws relating to Highways in that Part of Great "Britain called England."

Commissioners may direct that One Chapel shall be used by different Parishes, Districts, or Places for which Burial Grounds contiguous to each other shall have been provided. 9 & 10 Vict. c. 68. s. 1.

268. Where any Land purchased or obtained for a new or additional Burial Ground for any Two or more of the Parishes, Districts, or Places included in the Expression Parish, District, or Place is conveyed to the Commissioners or to such Body or Person as they may direct, the Commissioners may order and direct in such Conveyance, or by any Instrument under their Common Seal, that any Chapel which at the Time of such Order and Direction has been or may be thereafter erected on any Portion of such Land for the Performance of the Burial Service therein, and any Lodge or other Building which at the Time of such Order and Direction has been erected or may thereafter be erected on any Part of such Land, and also any Access or Approach to and from such Chapel, Lodge, or other Building, shall be for the Use of all and each of such Parishes Districts, or Places.

Ministers of each Parish may use the Chapel. Same Fees payable as are due in Parishes, &c. for which Ground has been purchased. 9 & 10 Vict. c. 68. s. 1.

269. The Officiating Minister of each such Parish, District, or Place respectively may use such Chapel for the Purpose of the Burial Service therein; and in respect to the Use of such Burial Ground by each such Parish, District, or Place, the like Fees for the Performance of such Burials, and for the making, opening, or using any Catacombs, Vaults, or Ground for Burials within such Burial Ground, shall be due and payable as are accustomed to be taken in each such Parish, District, or Place respectively; and the Use of such Chapel, Lodge, or other Building by such Officiating Minister shall be subject to such Regulations as the Bishop shall from Time to Time make under his Hand and Seal.

Bishop of the Diocese may declare in the Sentence of Consecration that such Chapel is intended for the Use of

270. The Bishop may declare in the Sentence of Consecration that such Chapel is intended for the Use of such respective Parishes, Districts, or Places for the Performance of the Burial Service therein, and if, after the Consecration of such Chapel, any additional Land be conveyed to the Commissioners, or to any other Body or Person as a Burial Ground, for the Use of such Parishes, Districts, or Places, or for the Use of any other Parish, District, or Place, (such Land adjoining

adjoining or being near to such former Land so conveyed,) such Chapel, subject to the Regulations by the Bishop, may be used for the Performance of the Burial Service in such additional Ground, and such Lodge or other Building, and every Access and Approach to and from such Chapel, Lodge, or Building, may be used for such Purpose.

respective Parishes, Districts, or Places. 9 & 10 Vict. c. 68. s. 2.

271. For the Enclosure of such Land One Boundary Fence around the whole may by the Bishop (if he think fit) be declared sufficient, without any Subdivision Fences enclosing the Portions so conveyed, for the Use of the several Parishes, Districts, or Places respectively; but if the Bishop think fit he may require such Bound Stones to be put down as may appear to him necessary for marking the Boundaries of the Land so conveyed to the Commissioners for the Use of the respective Parishes.

One Boundary Fence sufficient. Bishop may direct Bound Stones to be put down for marking Boundaries of each Parish, &c. 9 & 10 Vict. c. 68. s. 3.

272. Nothing herein contained shall authorize any Church Rate to be made on such Parishes, Districts, or Places, or any of them, for the Repair or Sustentation of such Chapel, Lodge, or other Building, or Fence, but such Repair or Sustentation shall be provided for by a such a Sum of Money as the Commissioners shall consider sufficient.

This Act not to authorize any Church Rate for the Repair of the Chapel, &c. 9 & 10 Vict. c. 68. s. 4.

273. Such Sum shall be set apart, and invested in Government Securities in the Names of Trustees to be appointed by the Commissioners, and shall be held by such Trustees in trust for the Purposes aforesaid, and the Dividends or annual Proceeds arising therefrom shall be applied in such Repair and Sustentation, as and when the Trustees for the Time being, with the Consent of the Bishop, shall from Time to Time direct.

A sufficient Fund for such Repair or Sustentation shall be set apart, and invested in the Names of Trustees. 9 & 10 Vict. c. 68. s. 4.

274. In case of a Vacancy amongst such Trustees, the remaining Trustees, and if there be no remaining Trustee, or no Trustee that is capacitated or willing to act, the Bishop, shall supply such Vacancy by the Appointment of a fresh Trustee, who shall hold such Trust Fund, and apply the annual Dividends and Proceeds arising therefrom, jointly with the remaining Trustees, if any, in like Manner as the Trustee in whose Place he shall be appointed.

Vacancies amongst Trustees to be filled up. 9 & 10 Vict. c. 68. s. 4.

275. The Freehold of any such Chapel, when consecrated, and the Site thereof, and of any Lodge, Walls, or Gates on any Part of such Burial Ground, shall vest in the Bishop of the Diocese in which the same is situate, and the Preservation and Custody thereof shall belong to the Trustees for the Time being of such Repair Fund, who shall have Power from Time to Time to make such Order and Regulations as may to them in that Behalf seem proper.

Freehold of Chapel, &c. to vest in the Bishop of the Diocese. 14 & 15 Vict. c. 97. s. 28.

PART XV.

Powers of the Commissioners; Schemes, Orders in Council, and Consents thereto.

Commissioners may make Grants or Loans or expend Money. 58 G. 3. c. 45. s. 21. 59 G. 3. c. 134. s. 7. 3 G. 4. c. 72. s. 5. 8 & 9 Vict. c. 70. s. 12. 3 G. 4. c. 72. s. 3. 6 & 7 Vict. c. 37. s. 24. 59 G. 3. c. 134. s. 5.

276. The Commissioners, at their Discretion, may, out of any Property at their Disposal respectively applicable thereto, make Grants or Loans or expend Money for the following Purposes or any of them; viz.,

For or in aid of building Churches or rebuilding or enlarging Churches (where further Accommodation for the Performance of Divine Service according to the Use of the United Church may be required):

For or towards the Purchase of Sites for building Churches, with or without Burial Grounds:

For or towards purchasing Burial Grounds (either within or without the Boundaries of the Parishes for which they are to be provided), and for or towards enlarging existing Burial Grounds:

For or towards providing, in case of a Parish divided into Townships, Hamlets, Vills, Chapelries, or other Divisions, further Accommodation for Divine Service:

6 & 7 Vict. c. 37. s. 19.

For or towards the Endowment or Augmentation of the Income of Ministers and Perpetual Curates of separate Parochial Districts and new Parishes to such an Amount or in such Proportion and in such Manner as shall be deemed expedient by the Authority of a Scheme and Order in Council:

58 G. 3. c. 45. s. 32. 6 & 7 Vict. c. 37. s. 19. 14 & 15 Vict. c. 97. ss. 2, 3, 4. 19 & 20 Vict. c. 104. s. 13. 6 & 7 Vict. c. 37. s. 24.

For or towards making Compensation to any existing Incumbent of a Mother Church for the Loss which he may sustain by reason of the Transfer of any Fees, Dues, Oblations, or Offerings to the Incumbent of a District Chapelry, separate Parochial District, or new Parish:

For or towards the Erection of a Church for a new Parish, although the Right of Patronage of such Church may not belong on the Consecration thereof to the Incumbent of the original Parish in which such Church is situate.

Property may be given to provide Compensation to the Incumbents for the Loss of Fees.

277. Any Body or Person may give or grant to the Commissioners any Land or Property for the Purpose of providing such Compensation as is mentioned in the Section lastly herein-before contained, in like Manner as such Body or Person might give or grant to the Commissioners Land or Property for any other of the Purposes in the same Section mentioned.

278. The

Powers to Commissioners to make new Rules.

278. The Commissioners shall have Power, from Time to Time as Occasion may require, to make new Rules for regulating their Proceedings, and such Regulations as they may deem expedient, for the Furtherance of the Provisions of this Act, and by any such Rules to rescind or alter any Rules or Regulations for the Time being in force. And all such Rules and Regulations shall be laid before both Houses of Parliament as soon as conveniently may be.

Reports, Accounts, and Returns of Proceedings under this Act. 58 G. 3. c. 45. s. 81.

279. The Commissioners shall, upon the *First Day of February* in every Year, prepare Reports and Accounts, stating the Number and Description of Parishes or Districts formed or assigned, the Number of Churches built or building, the Accommodation therein provided or intended to be provided, the Stipends assigned to the Incumbents or Curates, the Money expended by the Commissioners, and for what Purposes, the Nature and Amount of Endowments provided under this Act, the Mode in which any Patronage has been dealt with by the Commissioners or with their Concurrence, and in whom it is vested, the Offices of the Church directed to be solemnized or performed in any Church or Chapel, the Appropriation of the Fees arising from such Offices, and all such other Particulars as shall be necessary for explaining the Progress made by them during the last preceding Year in carrying this Act into execution, and such Reports and Accounts shall annually be laid before both Houses of Parliament.

Effect of the Order in Council.

280. In case Her Majesty in Council shall order the Formation of any Parish, Chapelry, or District, the Annexation of any Extra-parochial Place, the Assignment or Transfer of any Patronage, the resettling or apportioning any Endowments, or the carrying into effect any such other Act, Matter, or Thing authorized by this Act, such Order shall be valid for giving effect thereto respectively, and to all Arrangements proposed by such Representations, notwithstanding any Local Act.

Powers of 3 & 4 Vict. c. 113. and 4 & 5 Vict. c. 39. extended to this Act. 6 & 7 Vict. c. 37. s. 23. 19 & 20 Vict. c. 104. s. 30.

281. The Powers vested in Her Majesty in Council and in the Commissioners by the Acts of the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth Years of the Queen, Chapter Thirty-nine, with reference to the Matters therein contained, and all other the Provisions of the same Acts relating to Schemes and Orders prepared, made, and issued for the Purposes thereof, shall be continued and extended and shall apply to Her Majesty in Council and to the Commissioners, and to all Schemes and Orders prepared, made, and issued by them respectively, with reference to all Matters relating thereto.

In any Representation to the Queen in Council, &c. the Number of the Section of the Act under which such Representation, &c. is made need not be recited. 7 & 8 Vict. c. 56. s. 5.

282. In any Representation to Her Majesty in Council, or in any Order in Council to be made thereon, or in any other Act, Matter, or Thing to be done by the Commissioners under this Act, it shall be sufficient to refer to the Section or Sections as numbered in Copies printed by the Queen's Printer of the Acts under the Authority whereof such Representation or Order in Council is expressed to be made, or such Act, Matter, or Thing done, and it shall not be necessary to recite any of the Provisions of such Section.

Order in Council to be gazetted and registered in the Registry of the Diocese. 58 G. 3. c. 45. s. 22. 3 & 4 Vict. c. 113. s. 86. 6 & 7 Vict. c. 37. ss. 8, 9, 10, 23. 7 & 8 Vict. c. 56. s. 6. 19 & 20 Vict. c. 104. s. 30.

283. Every Order in Council made under this Act shall have and be of the same Force and Effect as if all and every Part thereof was included in this Act, and as soon as may be after the making thereof shall be inserted in the London Gazette, and be then registered in the Registry of the Diocese; and Notice of such Order shall be given in such Manner as the Commissioners shall direct.

Representations of Commissioners to set forth the Boundaries for the Formation of a new Parish, &c. and a Map thereof to be registered. 58 G. 3. c. 45. s. 22. 6 & 7 Vict. c. 37. s. 10. 7 & 8 Vict. c. 56. s. 6. 7 & 8 Vict. c. 94. s. 8.

284. Every Representation to be made by the Commissioners to Her Majesty in Council for the Formation of any new Parish, District Chapelry, or separate Parochial District, shall set forth the proposed Boundaries thereof, and the Name by which it is proposed that such Parish, Chapelry, or District should be called, and such Boundaries shall also be described or delineated on a Map or Plan to be annexed to such Representation, and such Map or Plan, or a Copy thereof, shall be sealed with the Common Seal of the Commissioners, and registered in the Registry of the Diocese, together with any Order in Council ratifying such Representation; provided that it shall not be necessary to publish such Map or Plan in the London Gazette.

Such Boundaries may be altered. Requisite Consents. 58 G. 3. c. 45. s. 23. 3 & 4 Vict. c. 60. s. 6. 7 & 8 Vict. c. 94. s. 9. 8 & 9 Vict. c. 70. s. 16. 11 & 12 Vict. c. 37. s. 3. 13 & 14 Vict. c. 94. s. 27.

285. Her Majesty in Council, upon a Representation of the Commissioners, made with the Consents of the Bishop and of the Patrons and Incumbents of any Parish, District, or Place to be affected, under their respective Hands and Seals, may from Time to Time alter the Boundaries of any new Parish, District Chapelry, or separate Parochial District formed under the former Church Building Acts, the former New Parishes Acts, or this Act, and may also add thereto any Portions of any adjacent Parish, District, or Place.

Where Patron or Incumbent do not consent. 3 & 4 Vict. c 60. s. 7.

286. If the requisite Consent of any Incumbent or Patron of any Parish, District, or Place be not obtained to such Alteration of Boundaries, such Order in Council may, with the Consent of the Bishop and the Patron, be made on the Representation of the Commissioners; but such Alteration shall not take effect so as to affect the Parish, District, or Place of which the Incumbent shall refuse to consent, until the next Avoidance of the Church thereof.

287. Any

Rearrangement of Boundaries. 7 & 8 Vict. c. 94. s. 9.

287. Any Portion of any such Parish, Chapelry, or District which by any such Alteration of Boundaries shall become detached or excluded therefrom shall either again belong to and form Part of the Parish, District, or Place out of which such Portion was originally taken, or belong to and form Part of any other Parish, District, or Place as shall be specified in such Representation.

Who to be deemed Patrons for the Purposes of Notice. 6 & 7 Vict. c. 37. s. 23. 19 & 20 Vict. c. 104. s. 20.

288. The Provisions contained in an Act passed in the Second Year of the Queen, Chapter One hundred and six, respecting the Party to be deemed Patron for the Purposes of Notice to be served upon and Consent to be given by such Patron, and also respecting the Manner in which and the Party by whom any such Consent is to be given, shall be construed to apply to the like Matters respectively under this Act.

Consent of the Crown. 1 & 2 W. 4. c. 38. s. 15. 1 & 2 Vict. c. 107. s. 2.

289. In every Case in which the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or to or in any Agreement under this Act, and in every Case in which any Notice is required by this Act to be given to the Patron of any Benefice, and the Patronage of such Benefice is in the Crown, such Consent or Concurrence shall be testified and such Notice shall be given respectively in manner herein-after mentioned; that is to say, if such Benefice be above the yearly Value of *Twenty Pounds* in the Queen's Books, the Instrument by which such Power is exercised or Agreement made shall be executed by and any such Notice given to the Lord High Treasurer or the First Commissioner of Her Majesty's Treasury; and if such Benefice do not exceed such yearly Value in the Queen's Books, such Instrument or Agreement shall be executed by and such Notice given to the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal; and if the Patronage of such Benefice be in the Crown in right of the Duchy of Lancaster, or of the Duchy of Cornwall, such Instrument or Agreement shall be executed by and any such Notice given to the Chancellor of such Duchy; and the Execution of such Instrument or Agreement by and any such Notice given to such Person or Persons shall be deemed and taken for the Purposes of this Act to be an Execution by and a sufficient Notice to the Patron of the Benefice.

Consent of the Duke of Cornwall. 5 G. 4. c. 103. s. 19.

290. In every Case in which the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or to or in any Agreement under this Act, and in every Case in which any Notice is required by this Act to be given to the Patron of any Benefice, and the Advowson and Right of Patronage of such Benefice is Part of the Possessions of the Duchy of Cornwall, such Consent or Concurrence shall be testified and such

Notice given respectively in the Manner herein-after mentioned; (that is to say,) the Instrument by which such Power is exercised or Agreement made shall pass under the Seal of the Duchy of Cornwall, and such Notice shall be given to the Keeper for the Time being of the Records of the same Duchy, and the affixing of the Seal of the Duchy of Cornwall to such Instrument or Agreement, and the giving of such Notice in manner aforesaid, shall be, for the Purposes of this Act, an Execution by and a sufficient Notice to the Patron of such Benefice.

Consent of Corporations Aggregate.

291. If the Consent or Concurrence of any Corporation Aggregate be requisite to any Deed, Writing, or Instrument to be made in pursuance of or for the Purposes of this Act, such Consent or Concurrence shall be signified under the Common Seal of such Corporation.

Consent of Bishops and Ecclesiastical Corporations. 1 & 2 W. 4. c. 38. s. 26.

292. The Consent or Concurrence of Bishops, Deans, and Chapters, or other Ecclesiastical Corporations or Colleges, acting as Patrons of Benefices in right of their Bishoprics, Dignities, or Corporate Capacities, shall be as valid for all the Purposes of this Act as if such Consent or Concurrence had been given by a Patron absolutely and beneficially entitled.

Avoidance by an Ecclesiastical Corporation

293. In the Case of an Ecclesiastical Corporation Aggregate, an Avoidance of any Benefice held or enjoyed by such Corporation shall for any of the Purposes of this Act be deemed to have taken place after *Fifteen* Years from the Time of the passing of any Order in Council, or the Execution or doing of any Deed, Matter, or Thing, which under this Act is to take effect upon the next Avoidance of such Benefice.

How Consents of certain Parties shall be given, and what Notices shall in certain Cases be sufficient. 1 & 2 W. 4. c. 38. s. 15. 2 & 3 Vict. c. 49. s. 22. 3 & 4 Vict. c. 60. s. 21.

294. Where the Consent of or the Execution of any Deed or Instrument by the Patron of any Cathedral Preferment, or of any Benefice, Sinecure Rectory, or Vicarage, is required for carrying into effect any of the Purposes of this Act, and also where it may be necessary to give any Notice to any such Patron for any of such Purposes, the Consent of, Execution by, or Notice to the Patron or Person entitled to make Donation, or present or nominate to such Cathedral Preferment, Benefice, Sinecure Rectory, or Vicarage, in case the same were then vacant, shall respectively be sufficient.

Consent of Minors, Idiots, &c. 1 & 2 W. 4. c. 38. s. 15. 1 & 2 Vict. c. 106. s. 127.

295. Where the Consent or Concurrence of the Patron of any Benefice is required to or in the Exercise of any Power given by this Act, or any Agreement under this Act, or where any Notice is required by this Act to be given to the Patron of any Benefice, and the Patron of such Benefice is a Minor, Idiot, Lunatic, or Feme Covert,

Covert, the Guardian or Committee or Husband of such Patron (but in the Case of a Feme Covert with her Consent in Writing) may execute the Instrument by which such Power is exercised or Agreement made, in testimony of the Consent of such Patron, and such Notice shall be given in each such Case to such Parties respectively; and such Execution and such Notice shall for the Purposes of this Act be an Execution by and Notice to the Patron of the Benefice; and any Patron who shall be entitled at Law or in Equity for an Estate for Life, or a Term of Years determinable on a Life or Lives, or a greater Estate, shall be considered as Patron for the Purposes of this Act.

2 & 3 Vict. c. 49. s. 22. 3 & 4 Vict. c. 60. s. 21.

296. If any Body or Person sustain all or more than One of the Characters in which their or his Execution of or Consent to or Concurrence in any Deed or Act is required by this Act, such Body or Person shall or may at any Time act in both or all of the Characters which they or he shall so sustain, and execute and do all or any of such Deeds and Acts as are hereby authorized to be executed and done, as effectually as different Persons, each sustaining One of those Characters, could execute and do the same.

Same Party may consent in more than One Character.

297. Where the Consent of, or the Execution of any Deed or Instrument by, or any Notice to, any Patron or Incumbent or either of them, of any Parish, District, or Place, is required for carrying into effect any of the Purposes of this Act, and there shall be no known Patron and Incumbent, or either of them, which Fact shall be certified by the Bishop to the Commissioners, the Consent of, or the Execution of any such Deed or Instrument by, or giving of such Notice to the Bishop, shall, for the Purposes of this Act, have the same Effect as the Consent of, or Execution by, or Notice to, a Patron and Incumbent, or Patron or Incumbent, as the Case may be.

Where there is no Patron or Incumbent.

298. If any Incumbent or Patron to whom it shall be necessary under this Act to transmit or deliver the Draft of any Scheme proposed to be laid before Her Majesty in Council, or to give any Notice required by this Act, shall be beyond the Seas, or cannot be found, it shall be sufficient to leave such Draft or Notice, in the Case of an Incumbent, at the House of Residence belonging to his Benefice or Church, or if there be no such House of Residence then at his last usual Place of Abode in England, and in the Case of a Patron at his last usual Place of Abode in England.

How Scheme to be served where Incumbent or Patron absent from England. 7 & 8 Vict. c. 94. s. 4.

299. In the Case of any such absent Incumbent or Patron the Scheme shall not be laid before Her Majesty in Council until after the Expiration of *Two Months* from the Day on which the Draft

When Scheme, in case of absent Incumbent, to be

laid before the Queen. 7 & 8 Vict. c. 94. s. 4.

Draft thereof shall have been so left, unless such Incumbent and Patron shall in the meantime consent thereto.

How where Incumbent incapacitated or Benefice sequestered. 7 & 8 Vict. c. 94. s. 5.

300. If any such Incumbent being an Idiot or Lunatic or of unsound Mind, or any Benefice or Church be under Sequestration, or the Duties thereof be performed by a Curate duly appointed in consequence of the Suspension or the reputed Incapacity of the Incumbent thereof, it shall be sufficient to deliver or transmit the Draft of any such Scheme or to give any such Notice to the Committee of such Idiot, Lunatic, or Person of unsound Mind, or to the Sequestrator, or to such Curate of such Benefice or Church, as the Case may be; and the Consent of such Committee, Sequestrator, or Curate shall be deemed to be the Consent of the Incumbent.

Where Patrons are numerous. 7 & 8 Vict. c. 94. s. 6.

301. If the Patronage of any Church of any Parish, District, or Place is or shall be vested in and exercised by the Inhabitants generally of such Parish, District, or Place, or by any Body or Class of Persons exceeding *Five* in Number, it shall be sufficient to deliver or transmit the Draft of any such Scheme or give such Notice to One of such Patrons, and to the Churchwardens of any such Church; and such Churchwardens, or One of them, shall thereupon cause Notice of the Contents of such Draft or Notice to be given to such Patrons, and shall ascertain their Objections, if any, or their Consent to such Scheme, in such Manner as the Commissioners shall direct, and such Churchwardens, or One of them, shall communicate the same to the Commissioners or to the Bishop; and the Commissioners shall not lay such Scheme before Her Majesty in Council until after the Expiration of *Two* Months from the Day on which such Draft shall have been so delivered or transmitted, unless such Consent shall in the meantime be given.

PART XVI.

Provisions respecting Money borrowed of the Governors of the Bounty of Queen Anne.

Bounty Board may lend Money to the Ecclesiastical Commissioners. 6 & 7 Vict. c. 37. s. 2.

302. The Commissioners from Time to Time may borrow, and the Governors of the Bounty of Queen Anne and the Archbishop of Canterbury may lend and transfer to the Commissioners, upon the Security and Conditions herein-after mentioned, any Capital Sums of Stock, being Part of the Stock now standing in the Names of the Governors and such Archbishop in the Books of the Governor and Company of the Bank of England.

Commissioners to pay Interest

303. The Commissioners shall, upon the Transfer of any such Stock into their Names in the Books of the Governor and Company of the

the Bank of England, accept the same in such Books, and shall pay to the Governors, by half-yearly Payments on the Tenth Day of April and the Fourteenth Day of October in every Year, a Sum equal in Amount to the Amount of the Dividends which such Stock, or so much thereof as shall on such Days respectively remain unreplaced, would produce; and the Commissioners may, at any Time, replace the whole or any Part of any such Sum or Stock, or of any Stock already lent and transferred to them under the Provisions of an Act passed in the Session of Parliament held in the Sixth and Seventh Years of the Queen, Chapter Thirty-seven.

half-yearly on Money borrowed from Bounty Board. 6 & 7 Vict. c. 37. s. 3.

304. The Money from Time to Time accruing to the Commissioners by reason of the Suspension of Canonries under an Act passed in the Session of Parliament held in the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and of an Act passed in the Session of Parliament held in the Fourth and Fifth Years of the Queen, Chapter Thirty-nine, and the Land and Property vested or to be vested in the Commissioners under such Acts, and also any Money borrowed by the Commissioners from the Governors under this Act, and the Rents and Profits thereof respectively, are hereby charged with all such half-yearly Payments as are made payable by the Act of the Sixth and Seventh Years of the Queen, or by this Act.

The Property of the Commissioners under the Cathedral Acts (3 & 4 Vict. c. 113. 4 & 5 Vict. c. 39.), and Money borrowed from the Governors, to be the Security for Payment of Interest. 6 & 7 Vict. c. 37. s. 4.

305. If any such half-yearly Payment, or any Part thereof, shall be in arrear for *Twenty* Days, then the Land, Property, and Money accruing or borrowed as aforesaid, and the Rents and Profits thereof respectively, are hereby charged with the Repayment and replacing of the whole Capital Stock so to be lent and transferred to the Commissioners, or already lent and transferred to them.

Same Security for the Payment of Capital upon Default of the Payment of Interest.

306. Upon any such Default the Governors shall have the same Remedies at Law against the Commissioners, upon and over such Money, Land, or Property in their Possession or Power, under the Provisions of the Acts of the Third and Fourth of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth of the Queen, Chapter Thirty-nine, for the Recovery of such Capital Stock, or so much thereof as shall then remain unreplaced, together with all Arrears of half-yearly Payments due thereon, as if the Commissioners had duly executed a Deed under their Common Seal, covenanting for Repayment to the Governors of such Stock and for making such half-yearly Payment on the Day when such Default shall have become complete; and such Transfer and Acceptance shall be sufficient Evidence of such Covenant.

Remedies for Nonpayment of Interest.

Bounty Board may require Repayment of Capital after Thirty Years. 6 & 7 Vict. c. 37. s. 5.

307. The Governors, at or after the Expiration of *Thirty* Years from the Date of the lending and transferring of any Sum of Stock already lent and transferred as aforesaid, and at or after the Expiration of a like Number of Years from and after the lending and transferring of any further Sum of such Stock under this Act, may give Notice to the Commissioners, in Writing under their Corporate Seal, requiring them to replace, in the Names of the Governors and of the Archbishop of Canterbury, the whole of such Sums of Stock respectively, or such Part thereof respectively as shall at the Date of such Notice remain unreplaced. And the Commissioners shall proceed to replace the same accordingly, by yearly Instalments, amounting at the least to *One Twelfth* Part of such Sums of Stock respectively, or of such remaining Part thereof, and upon default of their duly replacing any such Instalment the Governors shall have the like Remedies for recovering the same as for any Default in making any such half-yearly Payment.

Commissioners to have Rights of Ownership over the Lands, &c. vested in them under the Cathedral Acts. 6 & 7 Vict. c. 37. s. 6.

308. Notwithstanding the Charge by this Act created all the Rights and Powers of Ownership as are possessed respecting and over any Land or Property by any absolute Owner thereof shall be enjoyed by the Commissioners over any Land or Property vested and liable to be vested in them under the Provisions of the Acts of the Third and Fourth Years of the Queen, Chapter One hundred and thirteen, and the Fourth and Fifth Years of the Queen, Chapter Forty-nine, and may, subject to such Acts and this Act, be exercised by them, by valid Instruments, but in the Case of any such Land or Property not actually in their Possession, with the Consent of the respective Holders thereof, testified by their being made Parties to such Instruments; and the Consent of the Governors shall not be required to the Exercise by the Commissioners of any such Rights and Powers, notwithstanding such Charge.

Application of Purchase Money. 6 & 7 Vict. c. 37. s. 6.

309. Money received as the Consideration or Purchase Money for the Sale, Transfer, or Conveyance by the Commissioners of such Land or Property, or of any Estate or Interest therein, and also Money received by them as the Foregift or Fine for the granting or renewing of any Lease, shall, unless it be deemed expedient by the Commissioners to apply any such Sum or any Part thereof in replacing any Stock so lent and transferred or to be lent and transferred as aforesaid, which they are hereby empowered to do, be applied by them, so soon as conveniently may be after the Receipt thereof, in the Purchase of Lands, Tithes, Rentcharges, Tenements, or other Hereditaments, or of some Estate or Interest therein, and shall in the meantime be invested in some Government or Parliamentary Stock or other Public Securities in England,

England, the Commissioners being at liberty to apply the Interest and Dividends of such Stock or Securities, and the Rents and Profits of such Lands, Rentcharges, Tithes, Tenements, and other Hereditaments, to the Purposes of the lastly herein-before mentioned Acts or of this Act.

Commissioners to have full Power over Stock lent and transferred to them by the Governors. 6 & 7 Vict. c. 37. s. 7.

310. The Commissioners shall, for the Purposes and subject to the Provisions of the lastly herein-before mentioned Acts, and of this Act, have Right of Property over all the Stock so lent and transferred to them by the Governors.

Stock not to be used, nor Lands sold, without Approval of Her Majesty in Council. 6 & 7 Vict. c. 37. s. 8.

311. No Part of the Capital of such Stock shall be applied to such Purposes, nor shall any such Land or Property be sold, transferred, or conveyed, except by the Authority of a Scheme prepared by the Commissioners, and an Order issued by Her Majesty in Council ratifying such Scheme.

PART XVII.

Miscellaneous Clauses; and Saving of prior Rights.

Reservation of Ecclesiastical Jurisdiction. 58 G. 3. c. 45. ss. 84, 85. 3 G. 4. c. 72. ss. 36, 37. 2 & 3 W. 4. c. 61. s. 1.

312. Nothing in this Act contained shall, otherwise than is expressly provided, extend to invalidate or avoid any of the Laws Ecclesiastical or Constitutions of the United Church, or to affect or destroy any of the Rights or Powers belonging to any Bishop, Archdeacon, Chancellor, or Official, but they respectively, unless it be otherwise expressly provided, may at all Times hereafter visit, institute, and exercise Ecclesiastical Jurisdiction in any Parish, District, or Place, and the Church thereof, as amply and in such Manner as they respectively might have done before the passing of this Act.

The Validity of Marriages performed in Error in Churches with Parishes or Districts assigned to them not to be questioned, except where Proceedings are pending at the passing of this Act. 7 & 8 Vict. c. 56. s. 3. 14 & 15 Vict. c. 97. s. 25.

313. Where by Error and without Fraud Banns of Matrimony or Marriages have been, before the passing of this Act, published or solemnized in the Church of any Parish or District wherein Banns could not legally be published or Marriages legally solemnized, such Banns of Matrimony and such Marriages shall not, except where any such Marriage has been by a Court of competent Jurisdiction declared invalid, or any Proceeding is now pending respecting the Validity or Invalidity thereof, be questioned on account of such Banns having been published or such Marriages solemnized in any such Church.

Ministers who solemnized such

314. The Ministers who have published such Banns or solemnized such Marriages shall not be liable to any Ecclesiastical Censure or to any other Proceedings or Penalties by reason thereof; and the Registers

Marriages released from Penalties.

Registers of all Marriages so solemnized, except as aforesaid, or Copies of such Registers, shall be received in all Courts of Law and Equity as Evidence of such Marriages respectively.

Registers of such Marriages to be received as Evidence. 7 & 8 Vict. c. 56. s. 3. 14 & 15 Vict. c. 97. s. 25.

315. Except as herein otherwise provided, nothing in this Act contained shall affect or alter any existing Rights, Interests, Privileges, or Liabilities, Ecclesiastical or Civil, acquired or incurred under the former Church Building Acts or former New Parishes Acts.

Rights or Liabilities. 19 & 20 Vict. c. 104. s. 29.

Saving for Acts done and of existing Interests.

316. Orders in Council, Orders by Her Majesty's Commissioners for Building New Churches, Orders by the Commissioners, Deeds, Instruments, Acts, Matters, and Things, made, executed, done, rendered valid or confirmed, Rights acquired, Liabilities incurred, and any Proceedings or Matters in progress under the former Church Building Acts or former New Parishes Acts at the Time when this Act comes into operation, may, subject to the Provisions affecting the same herein contained, be proceeded upon and remain and be put in force in like Manner as if this Act had not been passed.

Existing Rules of Commissioners to continue in force.

317. The Rules and Regulations for the general Proceedings of the Commissioners, and the Regulations drawn up under the former Church Building Acts or New Parishes Acts, and now in force, shall, until the same are rescinded or altered by the Commissioners, remain and be put in force and be applicable for the Purposes of this Act, except so far as any such Rules or Regulations are inconsistent therewith.

Division of or Separation from a Parish, &c. not to affect certain Parochial Rights. 58 G. 3. c. 45. s. 31.

318. The dividing of any Parish, District, or Place, or the Separation therefrom of any Part thereof, under the former Church Building Acts, the former New Parishes Acts, or this Act, shall not affect such Parish, District, or Place, or the Persons residing therein, save as in the said former Acts and this Act is specially provided.

Saving of the Manchester Division Act, 1850. 14 & 15 Vict. c. 97. s. 22. 19 & 20 Vict. c. 104. s. 29.

Rights of Brazen Nose College preserved. 58 G. 3. c. 45. s. 69.

319. Nothing herein contained shall alter the Provisions of "The Parish of Manchester Division Act, 1850," or affect the existing Rights of the Principal and Scholars of the King's Hall and College of Brazen Nose in the University of Oxford, and their Successors, to nominate and present from Time to Time fit Clerks to officiate in Churches within the Parish of Stebunheath otherwise called Stepney in the County of Middlesex.

Apportionments of Glebe and

320. Every Assignment under this Act of any Stipend or Salary to the Minister or Clerk of any Church, and every Endowment under this Act, and every Apportionment, except as herein-before provided,

provided, of Glebe Lands, Tithes, Moduses, and other Endowments and Emoluments, and of any Fees, Oblations, Offerings, or other Ecclesiastical Dues or Profits, and also of all permanent and other Charges made under this Act, and all Tables of Fees made under this Act, shall be registered in the Registry of the Diocese.

Emoluments, and of Charges, to be registered in the Registry of the Diocese. 58 G. 3. c. 45. s. 72. 59 G. 3. c. 134. ss. 18, 28.

321. No Action or Suit shall be commenced against any Body or Person for anything done in pursuance of this Act, until *Fourteen* Days Notice thereof in Writing has been given to the Secretary for the Time being of the Commissioners, nor after a sufficient Satisfaction or a Tender thereof hath been made to the Party aggrieved, nor after *Six* Months next after the Fact committed.

Limitation of Actions. 58 G. 3. c. 45. s. 83. Notice to the Secretary of the Commissioners.

322. Such Action shall be brought in the Court of Exchequer in England, and shall be laid in the County of Middlesex, and not elsewhere; and the Defendant in such Action or Suit shall and may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if the same appear to be so done, or if such Action or Suit be brought after the Time herein-before limited for bringing the same, or be brought without *Fourteen* Days Notice thereof, or be brought in any other County or Place, or after a sufficient Satisfaction made or tendered as aforesaid, then the Jury shall find for the Defendant; or if the Plaintiff become nonsuited or suffer a Discontinuance of his Action, or if a Verdict pass against the Plaintiff, the Defendant shall be entitled to have Judgment with full Costs of Suit.

General Issue.

SCHEDULES.

SCHEDULE (A.)

ACTS WHOLLY OR PARTIALLY REPEALED.

Year and Chapter.	Title.	Extent of Repeal.
43 G. 3. c. 108. -	An Act to promote the building, repairing, or otherwise providing of Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes - -	The whole, so far as it relates to England.
51 G. 3. c. 115. -	An Act for amending the Act Forty-third George the Third to promote the building, repairing, or otherwise providing the Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes.	The whole, so far as it relates to England.
58 G. 3. c. 45. -	An Act for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 14, 15, 55, 56, 57, 58, 59, 60, 61, 65, 66, 68, 70, 71, and so much of s. 75 as relates to Churches built wholly or in part out of any Rates or with any Money raised upon the Credit of any Rates.
59 G. 3. c. 134. -	An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 3, 5, 14, 23, 24, 25, and 40.
3 G. 4. c. 72. -	An Act to amend and render more effectual Two Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, for building and promoting the building of additional Churches in populous Parishes.	The whole, except ss. 5, 6, 7, 20, 21, and 26.
5 G. 4. c. 103. -	An Act to make further Provision and to amend and render more effectual Three Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, and in the Third Year of His present Majesty, for building and promoting the building of additional Churches in populous Parishes.	The whole.

Year and Chapter.	Title.	Extent of Repeal.
7 & 8 G. 4. c. 72. -	An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes.	The whole.
1 & 2 W. 4. c. 38. -	An Act to amend and render more effectual an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty, intituled "An Act to amend "the Acts for building and promoting "the building of additional Churches "in populous Parishes."	The whole.
2 & 3 W. 4. c. 61. -	An Act to render more effectual an Act passed in the Fifty-ninth Year of His late Majesty King George the Third, intituled "An Act to amend and render "more effectual an Act passed in the "last Session of Parliament for build- "ing and promoting the building of "additional Churches in populous Pa- "rishes."	The whole.
1 & 2 Vict. c. 107. -	An Act to amend and render more effectual the Church Building Acts.	The whole.
2 & 3 Vict. c. 49. -	An Act to make better Provision for the Assignment of Ecclesiastical Districts to Churches or Chapels augmented by the Governors of the Bounty of Queen Anne; and for other Purposes.	Sections 2, 3, 4, 9, 10, and 11.
3 & 4 Vict. c. 60. -	An Act to further amend the Church Building Acts.	The whole.
7 & 8 Vict. c. 56. -	An Act concerning Banns and Marriages in certain District Churches or Chapels.	The whole.
8 & 9 Vict. c. 70. -	An Act for the further Amendment of the Church Building Acts.	The whole.
9 & 10 Vict. c. 68. -	An Act for better enabling the Burial Service to be performed in One Chapel where contiguous Burial Grounds shall have been provided for Two or more Parishes or Places.	The whole.
9 & 10 Vict. c. 88. -	An Act to remove Doubts as to the Legality of certain Assignments of Ecclesiastical Patronage.	The whole.
11 & 12 Vict. c. 37.	An Act to amend the Law relative to the Assignment of Ecclesiastical Districts.	The whole.

Year and Chapter.	Title.	Extent of Repeal.
14 & 15 Vict. c. 97.	An Act to amend the Church Building Acts.	The whole.
17 & 18 Vict. c. 32.	An Act to facilitate the Apportionment of the Rent when Parts of Lands in Lease are taken for the Purposes of the Church Building Acts.	The whole.

SCHEDULE (B.)

ACTS WHOLLY OR PARTIALLY REPEALED.

Year and Chapter.	Title.	Extent of Repeal.
6 & 7 Vict. c. 37. -	An Act to make better Provision for the Spiritual Care of populous Parishes.	The whole.
7 & 8 Vict. c. 94. -	An Act to explain and amend an Act for making better Provision for the Spiritual Care of populous Parishes.	The whole.
13 & 14 Vict. c. 94.	An Act to amend the Acts relating to the Ecclesiastical Commissioners for England.	Section 27.
19 & 20 Vict. c. 104.	An Act to extend the Provisions of an Act of the Sixth and Seventh Years of Her Majesty for making better Provision for the Spiritual Care of populous Parishes, and further to provide for the Formation and Endowment of separate and distinct Parishes.	The whole.

6 *February* 1863. 26 Vict.

A

BILL

TO

Abolish Church Rates.

WHEREAS Church Rates have for some Years ceased to be made or collected in many Parishes by reason of the Opposition thereto, and in many other Parishes where Church Rates have been made the levying thereof has given rise to Litigation and Ill-feeling: And whereas it is expedient that the Power to make Church Rates should be abolished: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. From and after the *passing of this Act* no Church Rate shall be made or levied in any Parish in England or Wales. Church Rates abolished.

2. Provided always, That in any Parish where a Sum of Money is at the Time of the *passing of this Act* due on the Security of Church Rates to be made or levied in such Parish under the Provisions of any Act of Parliament, such Rates may still be made and levied pursuant to such Provisions for the Purpose of paying off the Money so due, but not otherwise, until the same shall have been liquidated. Saving where Money due on Security of such Rates.

3. Any

Church Rate already made may be recovered.

3. Any Church Rate made at any Time before the *passing of this Act* may be collected and recovered in the same Way as if this Act had not been passed.

Short Title.

4. This Act may be cited as "The Church Rate Abolition Act, 1863."

11 *February* 1863. 26 Vict.

A

BILL

TO

Establish a Charge instead of Church Rates, for the Commutation thereof, and to afford Facilities for the Provision of other Funds applicable to the Purposes of the Church Rates.

WHEREAS Church Rates have for some Years ceased to be made in certain Parishes, and in other Parishes where Church Rates have been made the levying thereof has given rise to Ill-feeling and Litigation: And whereas it is expedient that an annual Charge upon Property should be levied in lieu of Church Rates, and that Provision should be made for the Commutation of such Charge, and for the Reception, holding in trust, and due Application of Benefactions and voluntary Contributions for the Purposes of Church Rates and instead thereof: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

1. This Act may be cited as The Church Rates Commutation Act, 1863. Short Title.

Extent.

2. This Act shall extend to England only.

Interpretation.

3. In this Act—

The Term "Parish" shall mean any Place or District for which a separate Church Rate might be made if this Act had not been passed, whether a Parish, District Parish, Ecclesiastical District, or other Ecclesiastical Division:

The Term "the Quarter Sessions" shall mean such Court of General or Quarter Sessions as has Jurisdiction over the Parish or Part of the Parish affected by any Provision of this Act in which that Term is used:

The Terms "Clerk of the Peace" and "Town Clerk" respectively shall include any Officer or Person who discharges the Duties of Clerk of the Peace or Town Clerk where there is no such Officer as Clerk of the Peace or Town Clerk, and shall mean the Clerk of the Peace, Town Clerk, or other such Officer or Person as aforesaid of or acting for the County, Borough, or Place for which the Quarter Sessions are held:

The Terms "Church" and "Churchwarden" shall include Chapel and Chapelwarden:

The Term "Owner of Property" shall, with respect to Land, mean the Person who is for the Time being entitled to receive the Rackrent from the Occupier thereof, or who, if such Land were let to a Tenant at Rackrent, would for the Time being be entitled to the Receipt thereof:

The Term "Ratepayer" shall mean a Person assessed to Rates for Relief of the Poor.

Mode of publishing Notices by Churchwardens.

4. Where Churchwardens are required by this Act to publish any Notice, Account, or other Thing, they shall fix the same, in Writing or Print, or partly in Writing and partly in Print, under their Hands, on or near the principal Door of the Church of the Parish, and shall keep the same so fixed for the whole of the following *Month*, and also shall advertise the same once at least during such *Month* in some Newspaper printed in the County in which the Parish is situate, and if there is none, then in an adjoining County.

Mode of making Special Order of Vestry.

5. Any Special Order made by a Vestry under this Act shall be made as follows:—The Churchwardens shall publish a Notice of the intended Meeting of the Vestry and of the Object thereof; the Resolution of the Vestry agreed to at such Meeting shall be confirmed at a subsequent Meeting held not sooner than *One Month* and not later than *Two Months* thereafter; the Churchwardens shall publish a Notice of such intended subsequent Meeting, and of the Object thereof, and shall (in addition to any such Advertisement as aforesaid) advertise such Notice, once at least in each *Fortnight* intervening between the Two Meetings, in some such Newspaper as aforesaid.

Establishment

Establishment of Church Charge.

Church Charge at 2*d.* in the Pound in lieu of Church Rates.

6. All Property in respect of the Occupation whereof the Occupier would, if this Act had not been passed, be liable to be assessed to Church Rates in any Parish, shall be subject to an annual Charge after the uniform Rate of *Twopence* for every Pound Sterling of the rateable Value thereof, according to the Valuation of Property in the Parish for the Purpose of Rates for Relief of the Poor. Such Charge shall be called the Church Charge, and shall be in substitution for Church Rates, and shall be applicable for the Purposes for which Church Rates are now by Law applicable.

Assessment of Church Charge.

Churchwardens to make and publish Schedule for Assessment of Church Charge for the present Year.

7. Forthwith after the passing of this Act, the Churchwardens of every Parish shall proceed to make out a Schedule showing all the Property subject to the Church Charge for the Parish, the Names of all Persons liable to pay the same, the Amount for which each is liable, and the total Amount of the Church Charge for the Parish. Such Schedule shall be, as nearly as may be, in the Form set forth in the Schedule to this Act. The Churchwardens shall complete such Schedule within *Three Months* after the passing of this Act, and forthwith on Completion thereof shall publish the same, together with a Notice, stating that any Person dissatisfied with the Assessment therein contained may appeal against the same in like Manner as an Appeal may be made by any Person against a Rate for Relief of the Poor.

Similar Schedule to be made yearly.

8. The Churchwardens in every Parish shall yearly on or before the *First Day of November* make out a like Schedule, and publish the same, together with a like Notice.

Penalty on wilful Omission, &c. by Churchwarden.

9. If any Churchwarden wilfully omits to include any Property or Person in any such Schedule, or if any Churchwarden makes in any such Schedule a Statement of anything by this Act required to be stated therein, knowing the same to be false in any material Particular, he shall be liable to a Penalty of not more than *Five Pounds*, to be recovered in a summary Way before Two Justices of the Peace.

Appeal as in case of Poor Rate.

10. All statutory and other Provisions and Rules concerning an Appeal against a Rate for Relief of the Poor, and the affirming, quashing, or amending thereof, shall, as far as may be, extend and apply, mutatis mutandis, to the Church Charge, and to an Appeal against the same, and the affirming, quashing, or amending thereof.

Schedule to be sent to Clerk of Peace or Town Clerk.

11. The Churchwardens of every Parish shall deliver every such Schedule to the Clerk of the Justices of the Petty Sessions Division within

within which such Parish is, who shall within *Fourteen Days* after any Appeal is disposed of by such Justices in Special Sessions, or after the Time allowed for any such Appeal is expired, send the same (with any Amendment made therein on any Appeal to such Special Sessions) to the proper Clerk of the Peace or Town Clerk, as the Case may be.

Collection of Church Charge.

Precepts for Church Charge along with County or Borough Rate, or separately if no County or Borough Rate made.

12. Wherever, after *the Thirty-first Day of March One thousand eight hundred and sixty-four*, a County Rate, or Rate in the Nature of a County Rate, or a Borough Rate, is made for the first Time in any Year, the Precepts, Warrants, or other Instruments issued for the Collection thereof shall also comprise and direct the Collection of the Church Charge in the several Parishes or Parts of Parishes subject to such respective Rate, and according to the Assessments made for the several Parishes in manner aforesaid, for which Purpose the Schedules so made as aforesaid for the several Parishes shall be delivered together with such Precepts, Warrants, or other Instruments; but if in any Year no such Rate be made in any Case before the *Thirtieth Day of June*, then on or before the *Twenty-first Day of July* in that Year like Precepts, Warrants, or other proper Instruments shall be issued for the Collection of the Church Charge alone, such Schedules as aforesaid being in like Manner delivered therewith respectively. All Precepts so issued shall be in the Forms in the Schedule to this Act, or as near thereto as may be, and all Warrants and other Instruments so issued shall be in the like Forms, as nearly as the Nature and Circumstances of each Case will admit.

Provisions respecting County and Borough Rates applied to Church Charge.

13. All statutory and other Provisions and Rules concerning the Powers, Rights, Duties, Protection, and Liabilities of Guardians of Unions, Overseers of the Poor, County Treasurers, Treasurers of Boroughs, Justices of the Peace, and other Authorities and Persons, in relation to County Rates, Rates in the Nature of County Rates, and Borough Rates respectively, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same, shall, as far as may be, extend and apply, mutatis mutandis, to the Church Charge, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same.

Separate Acknowledgment for Church Charge.

14. A separate Acknowledgment of the Payment of the Church Charge shall in all Cases be given.

Deduction by Tenant of Church Charge from his Rent.

15. The Occupier of any Property, being Tenant thereof, and not being liable, as between himself and his Landlord, by virtue of any Deed or Writing, made or to be made, to pay Church Rates or

or the Church Charge, either specifically, or as included in the general Description of Rates and Taxes, or otherwise, shall be entitled to deduct any Sum paid by him for the Church Charge out of his next following Payment of Rent, in like Manner as he deducts any Sum paid by him for Property Tax; and all Landlords, mediate and immediate, and their Receivers and Agents, and their Representatives and Assigns, according to their respective Interests, shall allow such Deduction, if claimed, upon Receipt of the Residue of the Rent, in like Manner as they allow the Deduction of any Sum paid for Property Tax; and the Tenant paying any Sum for Church Charge, and claiming such Deduction, shall be discharged of so much Money, as if the same had been actually paid to the Person to or for whom his Rent is due and payable.

[*See 5 & 6 Vict. c. 35. s. 60., No. IV., NinthRule.*]

Administration of Church Charge.

16. Every County Treasurer or Treasurer of a Borough who receives any Money for Church Charge shall within *Fourteen Days* thereafter transmit the same to the Governors of Queen Anne's Bounty, distinguishing the Parishes for which the same has been received, and the Sum received for each Parish; and the said Governors shall on Receipt thereof place the Proportions thereof received for the several Parishes to the Credit of separate Accounts to be opened and kept by them in their Books with the Churchwardens of such several Parishes, and shall within *Fourteen Days* thereafter give Notice in Writing of such Receipt by them to the respective Churchwardens.

County and Borough Treasurer to send Money received to Queen Anne's Bounty.

17. The Churchwardens of each Parish may from Time to Time draw on the Governors of Queen Anne's Bounty (their Signatures to their Draft being attested by a Justice of the Peace having Jurisdiction in the Parish) for such Amount, not exceeding the Sum standing to their Credit in the Books of the said Governors, as may from Time to Time be required in the Parish for the Purposes for which the Church Charge is applicable, and the said Governors shall remit such Amount to the Churchwardens: Provided, that the said Governors shall not in any Year remit to the Churchwardens of any Parish a Sum or Sums exceeding the Amount of the then last Year's Produce of the Church Charge for such Parish, except on a Special Order of the Vestry of the Parish authorizing the Churchwardens to draw for a Sum or Sums exceeding such Amount.

Churchwardens to draw on Queen Anne's Bounty.

18. The Churchwardens of each Parish shall annually lay before the Vestry an Account in Abstract of their Receipts and Payments for the past Year in respect of the Church Charge, having first published the same.

Annual Accounts of Churchwardens.

Regulation of Expenditure of Parish.

19. Where the Churchwardens of any Parish propose to expend any Money for the Purposes for which the Church Charge is applicable, the following Provisions shall take effect:

(1.) The Churchwardens shall publish and lay before the Vestry an Account showing for the past Year the Amount received by the Governors of Queen Anne's Bounty in respect of the Church Charge for the Parish, and the Amount thereof drawn by the Churchwardens, and the Expenditure of such Amount, and also a Statement of the Amount and Objects of the proposed Expenditure:

(2.) The Vestry may by Resolution authorize the proposed Expenditure:

(3.) Within *Fourteen Days* after the Meeting at which such Resolution is agreed to, any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appeal against the proposed Expenditure or any Part thereof to the Governors of Queen Anne's Bounty, stating in Writing the Grounds of his Appeal, and giving Notice thereof in Writing to the Churchwardens:

(4.) The said Governors shall, within *Two Months* after receiving the Appeal, hear and determine the same, stating in Writing their Approval or Disapproval of the proposed Expenditure or any Part thereof (with, in case of Disapproval, the Grounds thereof), and shall deliver such Statement to the Appellant, and a certified Copy thereof to the Churchwardens:

(5.) If the Appellant or the Vestry is dissatisfied with such Approval or Disapproval, he or they may, at any Time within *One Month* after the Delivery to him or them of such Statement or Copy, appeal against such Approval or Disapproval, on a Case stated in Writing by the Parties and approved by the said Governors, to the Lords Justices of the Court of Appeal in Chancery, who shall have Power to express and declare under their Hands a final Approval or Disapproval of such proposed Expenditure or any Part thereof, and, if they think fit, to obtain, at the Expense of the Parties or One of them, the Assistance of a Surveyor or other qualified Person to enable them to determine the Matter, and, if they think fit, to request the Advice and Assistance of the Archdeacon having Authority in the Parish, and also shall have Power to allow to either Party such Sum for Costs as may seem just, and for that Purpose to require either Party to give such Security for Costs as they may think fit:

(6.) The Churchwardens shall not proceed with the proposed Expenditure or the Part thereof appealed against, pending any such Appeal, or after any such Disapproval.

20. As

Investments by Queen Anne's Bounty for Benefit of Parish.

20. As often as there shall be standing for *Two Months* to the Credit of the Churchwardens of any Parish in the Books of the Governors of Queen Anne's Bounty under this Act a Sum of Cash exceeding *Fifty Pounds*, the said Governors shall, at the End of such *Two Months*, invest Money equal to such Sum of Cash in their own Names in some of the Public Stocks or Funds, for the Benefit of the Parish, and shall place the Income to arise from such Investment to the Credit of the Churchwardens of the Parish. Such Income and the Proceeds of any Sale from Time to Time made of any such Stocks or Funds (which Sale the said Governors may from Time to Time make as Occasion may require) shall be dealt with in like Manner as the Money received by the said Governors on account of the Church Charge for the Parish.

Accounts of Queen Anne's Bounty to be sent to Parishes.

21. The Governors of Queen Anne's Bounty shall send to the Churchwardens of the Parishes having Accounts in their Books under this Act Statements of their respective Accounts, in such Rotation that the Churchwardens of every Parish shall receive such a Statement once at least in every *Five Years*. The Churchwardens of each Parish shall, as soon as may be, lay such Statement before the Vestry, having first published the same.

Rules and Arrangements of Queen Anne's Bounty.

22. The Governors of Queen Anne's Bounty shall from Time to Time frame General Rules for the due Execution of the Duties imposed on them by this Act, and, subject and according to such Rules—

(1.) Shall appoint Officers and Clerks, and provide Offices and Things, necessary or proper for the due Execution of such Duties:

(2.) Shall invest in their own Names in some of the Public Stocks or Funds such Sums of Money coming to their Hands under this Act as may not be required either for immediate Use or for Investment for the Benefit of any particular Parish, and as may be properly so invested:

(3.) Shall apply the Income to arise from such last-mentioned Investments in or towards defraying the Expenses incurred by them in the Execution of this Act:

(4.) Shall, so far as such last-mentioned Income may be insufficient for that Purpose, defray such Expenses out of the Money coming to their Hands under this Act for the Church Charge, in such Manner that those Expenses may be borne rateably by the several Parishes.

Constitution of Meetings of Governors of Queen

23. A Meeting of the Governors of Queen Anne's Bounty shall not be competent to act for any of the Purposes of this Act unless there

Anne's Bounty.

there are present at least *Two* Lay Governors, or to hear and determine any Appeal under this Act unless there are present at least *Two* of the following Persons, nor shall any such General Rules as aforesaid be valid unless they are made under the Hands of at least *Seven* of the Governors, including at least *Three* of the following Persons; namely, the Speaker of the House of Commons, a Member of the Judicial Committee of Her Majesty's Privy Council, the Lord Chief Justice, Lord Chief Baron, or other Judge of One of the Superior Courts of Law at Westminster, the Master of the Rolls, Her Majesty's Advocate, Attorney, or Solicitor General, or One of Her Majesty's Counsel learned in the Law.

Administrative Committee of Queen Anne's Bounty.

24. The Governors of Queen Anne's Bounty shall appoint for the Purposes of this Act an Administrative Committee to discharge such of the Duties imposed on the said Governors by this Act as may be referred to such Committee by any General Rules made under this Act. The Administrative Committee shall consist of *Twelve* Governors, of whom at least *Four* shall be Laymen; and *Five* Members of such Committee, of whom at least *Two* shall be Laymen, shall form a Quorum.

Incorporation of Incumbent and Churchwardens.

Incumbent and Churchwardens to be a Corporation for Purposes of this Act.

25. In every Parish the Incumbent and Churchwardens for the Time being shall be and are hereby, for the Purposes of this Act, incorporated by the Name of "The Incumbent and Churchwardens of the Parish of ," and by that Name shall be One Body Corporate, with perpetual Succession and a Common Seal, and with Power to take and hold, without any Licence, and to dispose of, Land and other Property for the Purposes and according to the Provisions of this Act.

Discharge of particular Property from Church Charge.

Power to Owner of Property to obtain Discharge thereof from Church Charge by Payment of Capital Value of Church Charge thereon or by Grant of Redemption Rentcharge.

26. Any Person having any Estate or Interest in any Property liable to the Church Charge in any Parish may obtain the Discharge of such Property from such Liability in manner following:

(1.) He may pay to the Governors of Queen Anne's Bounty a Sum of Money equal to the Capital Value of the Church Charge on such Property, estimated at *Thirty Years* Purchase of the gross annual Amount of such Church Charge at the Time of such Payment, such Sum to be placed by the said Governors to the Credit of the Account in their Books of the Churchwardens of the Parish; or

(2.) He may grant to the Incumbent and Churchwardens of the Parish a perpetual yearly Rentcharge, to which the Term Redemption Rentcharge, when herein-after used, refers, to be issuing

issuing out of Land of Freehold Tenure, equal to the gross annual Amount at the Time of such Grant of the Church Charge on the Property intended to be discharged, securing such Rentcharge to the Satisfaction of the Governors of Queen Anne's Bounty:

(3.) The said Governors, on Receipt of such Money, or on such Rentcharge being secured to their Satisfaction, as the Case may be, shall give to the Person making such Payment or Grant a Certificate under their Common Seal stating such Payment or Grant, and specifying the Property for the Discharge whereof it is made, and shall send a certified Copy of such Certificate to the Churchwardens of the Parish:

Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to Church Charge.

Proceedings for obtaining Discharge where Property is in Settlement. 19 & 20 Vict. c. 120. 21 & 22 Vict. c. 77.

27. Where any Property liable to the Church Charge in any Parish is a Settled Estate within the Operation of the Settled Estates Act of 1856, the Discharge thereof from such Liability may be obtained in manner following:

(1.) The Court of Chancery, if the Court deems it proper and consistent with a due Regard to the Interests of all Parties entitled under the Settlement of such Estate, and subject to the Provisions and Restrictions contained in the last-mentioned Act, and any Act amending the same, as incorporated in this Act, may authorize the granting to the Incumbent and Churchwardens of the Parish of such a perpetual yearly Redemption Rentcharge as aforesaid, to be issuing out of Land of Freehold Tenure forming Part of such Settled Estate, or out of Land of Freehold Tenure subject to the same Limitations as such Settled Estate, and to be secured to the Satisfaction of the Governors of Queen Anne's Bounty in such Manner as the Court may approve:

(2.) The Court shall direct what Person shall execute the Deed for granting and securing such Rentcharge, and every Deed executed according to such Direction shall have Effect as if the Settlement of the Land comprised in such Deed had contained a Power enabling such Person to grant and secure such a Rentcharge, and so as to operate (if necessary) by way of Revocation and Appointment of the Use or otherwise, as the Court may direct:

(3.) The following Provisions of the said Settled Estates Act, and any Provision amending the same or any of them, shall, as far as may be, extend and apply, mutatis mutandis,

to the Exercise by the Court of Chancery of the Power conferred by the present Provision, as if the same were here re-enacted; namely, Sections Sixteen, Seventeen, Nineteen, Twenty-two, Twenty-six to Thirty-one, both inclusive, Thirty-six to Forty-two, both inclusive, and Forty-four.

Release of Redemption Rentcharge in consideration of Transfer of equivalent Stock.

28. Where any such Redemption Rentcharge has been granted, the Incumbent and Churchwardens of the Parish may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, release from such Rentcharge the Land out of which it issues, in consideration of the Transfer into the Names of the said Governors of a Sum in some of the Public Stocks or Funds producing permanently an Income equal to such Rentcharge. Any Sum so transferred shall be held by the said Governors for the Benefit of the Parish, and in discharge from Liability to Church Charge of the Property for Discharge whereof such Rentcharge was granted. On such Transfer the said Governors shall give a Certificate under their Common Seal, stating the same, and specifying the Property intended to be discharged, and shall send a certified Copy thereof to the Churchwardens of the Parish. Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to Church Charge.

Partial Release of Land from Redemption Rentcharge.

29. Where a Redemption Rentcharge has been granted, and any Person having any Estate or Interest in the Land out of which it issues is desirous of obtaining a Release of Part of such Land from the Rentcharge, the Incumbent and Churchwardens of the Parish may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, without any Consideration, release any Part of such Land from the Rentcharge, in case the Residue of such Land is sufficient Security for the Rentcharge; and in every such Case the Rentcharge shall continue charged on and issuing out of such Residue of the same Land, with the same Validity and Effect as to such Residue as if such partial Release had not been made.

Release of Redemption Rentcharge where Land charged is in Settlement.

30. Provided always, That where such a Redemption Rentcharge has been granted under the Authority of the Court of Chancery, and the Land out of which it issues continues comprised in a Settlement, the Court of Chancery, if it deem it proper and consistent with a due Regard for the Interests of all Parties entitled under the Settlement, may authorize any such partial Release as aforesaid, subject and according, as nearly as may be, to the same Restrictions and Provisions as are herein-before contained respecting the granting of a Redemption Rentcharge, and the same shall have Effect accordingly; and in any such Case any such partial Release shall not be valid unless the Authority of the Court of Chancery be so first obtained.

Benefactions

Benefactions for Relief of Parish from Church Charge.

31. Any Person may, notwithstanding any Statute restraining Alienation in Mortmain or Dispositions for Charitable Uses, by Deed or Testamentary Writing grant, give, or appoint any Property to the Incumbent and Churchwardens of any Parish for any Estate or Interest for which he has Power to dispose thereof, to be held by such Incumbent and Churchwardens and their Successors in trust for or towards the Relief of the Parish from the Church Charge: Provided always, that nothing herein-before contained shall empower any Person so to give, grant, or appoint any Property for the Relief of more than One Parish, or to give, grant, or appoint any Property [the Capital Value whereof exceeds the Value of the Church Charge for the Parish, estimated at *Thirty* Years Purchase of the average annual Produce thereof during the *Seven* Years next before such Gift, Grant, or Appointment taking effect; but so nevertheless that if the Capital Value of any Property intended to be given, granted, or appointed in pursuance of this Act be found to exceed the Limit aforesaid, such Gift, Grant, or Appointment shall be invalid under this Act for the Excess only, and the Court of Chancery may, on Petition in a summary Way, make Order for reducing the same to the Limit aforesaid.

Power to any Person to grant or devise Property for Relief of Parish, under Restrictions. [*See 2 & 3 Ann. c. 11. s. 4. 43 Geo. 3. cc. 107, 108.*]

32. Any Person who now holds or shall at any Time hereafter hold any Property in trust for the Relief of any Parish from Church Rates or the Church Charge may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, transfer the same to the Incumbent and Churchwardens of the Parish and their Successors, to hold on the same Trusts; and thereupon all Powers, Rights, Duties, and Liabilities of such Person in relation to such Property shall cease, except as to past Transactions.

Power for Trustees for Relief of Parish to transfer Property to Incumbent and Churchwardens.

Discontinuance of Church Charge in Parish.

33. Where it is made to appear to the Governors of Queen Anne's Bounty that the Property applicable for the Relief of any Parish from the Church Charge, not including any Redemption Rentcharge granted under this Act, produces and will permanently produce an Income equal to the aggregate annual Amount of the Church Charge for the Parish and of any such Redemption Rentcharge, or to such smaller annual Sum as is sufficient to meet the ordinary Expenditure of the Parish for the Purposes for which the Church Charge is applicable, the following Provisions shall take effect:

Award of Governors of Queen Anne's Bounty for Discontinuance of Church Charge.

(1.) The said Governors shall, by a Provisional Award under the Hand of their Secretary, declare that on Confirmation of that Award the levying of the Church Charge in the Parish

shall cease, and shall forthwith send a certified Copy of such Provisional Award to the Churchwardens of the Parish, who shall forthwith publish the same:

(2.) Such Provisional Award shall not have any Effect until after the Expiration of *Two Months* from its Date, and until it is confirmed by the said Governors, and sealed with their Common Seal:

(3.) During such *Two Months* any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may send to the said Governors a Statement in Writing of any Objection on his Part to the Award:

(4.) The said Governors shall forthwith send a certified Copy of such Statement of Objection to the Churchwardens of the Parish, who shall forthwith publish the same:

(5.) The said Governors shall, within *One Month* after Receipt of such Statement of Objection, and having first given to the Objector and to the Churchwardens of the Parish at least *Fourteen Days* Notice of the Time when they will take the same into consideration, proceed to take the same into consideration, and to hear and determine the Objection, and in case the Objection be not sustained, then to confirm the Award, and seal the same with their Common Seal:

(6.) On Confirmation of the Award the said Governors shall forthwith send the same to the Churchwardens, who shall publish the same:

(7.) From and after the Confirmation of the Award the levying of the Church Charge in the Parish shall cease:

(8.) Where any Redemption Rentcharge granted under this Act is subsisting at the Time of the Confirmation of the Award the Incumbent and Churchwardens shall, under the Direction of the Governors of Queen Anne's Bounty, release from such Rentcharge the Land out of which it issues.

Exemption of Parish from Church Charge.

No Church Charge where Church Rate not leviable, or where Order of Exemption.

34. Nothing in this Act shall be taken to authorize the levying of the Church Charge in any Parish where Church Rate is not now by Law leviable; and, notwithstanding anything herein-before contained, the Church Charge shall not be levied in any Parish so long as an Order of Exemption made as herein-after provided is in force for such Parish.

Order of Exemption by Quarter Sessions, on Application of Parish.

35. If at any Time within *Six Months* after the passing of this Act a Declaration is delivered to the Churchwardens of any Parish, signed by *Ten* Ratepayers of the Parish or by *One Fifth* of the Ratepayers (if *One Fifth* be less than *Ten*), stating either that no Church Rate

Rate has been made and levied in the Parish within the *Seven* Years ending the *Thirty-first Day of December One thousand eight hundred and sixty-two*, or that *Three* successive Times within such *Seven* Years a Proposal for the making of a Church Rate in the Parish has been rejected on a Poll duly taken, and that they desire to claim for the Parish Exemption from the Church Charge, the following Provisions shall take effect:

(1.) The Vestry may by Special Order authorize an Application to the Quarter Sessions for an Order of Exemption:

(2.) The Churchwardens shall, within *One Month* after the Completion of the Special Order, send a certified Copy thereof to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two* Months after the Completion of the Special Order, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order exempting the Parish from Liability to the Church Charge, which Order the Court shall make, on Proof being given of no Church Rate having been made and levied within such *Seven* Years, or of such *Three* successive Rejections as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

Revocation of Exemption.

Memorial of Parish for Revocation of Exemption, and Order of Quarter Sessions thereon.

36. If at any Time after the making of such an Order of Exemption for any Parish a Declaration is delivered to the Churchwardens of the Parish, signed by *One Fourth* of the Ratepayers of the Parish, stating that they desire to obtain the Revocation of such Order, the following Provisions shall take effect:

(1.) The Vestry may by Special Order adopt a Memorial to the Quarter Sessions for the Revocation of such Order:

(2.) If within *Fourteen Days* after such Adoption of a Memorial the same is signed by not less than *Two Thirds* of the Ratepayers of the Parish (but not otherwise) the Churchwardens shall forthwith send the same to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two Months* after the Receipt thereof by him, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order revoking the Order of Ex-

emption, which Order of Revocation the Quarter Sessions shall make, on Proof of the Memorial having been duly adopted and signed as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

Parish partly in County and partly in Borough.

Case where Parts of Parish within Jurisdiction of different Quarter Sessions.

37. Where different Courts of Quarter Sessions have Jurisdiction within different Parts of the same Parish, that Court which has Jurisdiction over such Part of the Parish as contains the larger Number of the Ratepayers of the Parish shall, for the Purposes of any such Order of Exemption or of Revocation, have exclusive Jurisdiction over the whole Parish.

Ecclesiastical Jurisdiction.

No Ecclesiastical Jurisdiction over levying of Church Charge.

38. No Ecclesiastical Court or Officer shall have any Jurisdiction or Authority over or in respect of the levying of the Church Charge.

Cessation of Church Rates.

Church Rates to cease.

39. No Church Rate shall be made in any Parish after the *Thirty-first Day of December One thousand eight hundred and sixty-three.*

Saving for Local Acts.

Existing Regulations as to any particular Parish to remain in force. [*See last Proviso in 53 Geo. 3. c. 127. s. 7.*]

40. Where any local Provision made by Authority of Parliament is now in force respecting the making or levying of Church Rates in any particular Parish or Place, or the Application thereof, such Provision shall remain unaffected by this Act.

General Savings.

Pending Proceedings, and Cases where Money borrowed on Security of Church Rates.

41. Nothing in this Act shall affect—

(1.) Any Action, Suit, or Proceeding already commenced or to be commenced before the *First Day of January One thousand eight hundred and sixty-four* in any Court, Parish, or Place with respect to any Church Rate, or with respect to the Purposes for which any Church Rate is applicable, or any Jurisdiction, Authority, or Power of any Court, Body, or Person relative to any such Action, Suit, or Proceeding:

(2.) Any Proceeding or Remedy for levying or recovering or enforcing Payment of any Church Rate already made or to be made before the *First Day of January One thousand eight hundred and sixty-four:*

(3.) The making or levying of any Church Rate in any Parish where any Money already borrowed or to be before the

First

First Day of January One thousand eight hundred and sixty-four borrowed on the Security of the Church Rates of the Parish remains for the Time being due, or where any Money is for the Time being in any Manner charged on or payable out of the Church Rates of the Parish; and in every such Case, so long as any such Money remains legally so due, charged, or payable, and for the Purpose only of the Payment of Interest (if any) accruing due in respect of such Money, and the Repayment of the Principal of such Money, Church Rates may and shall be made and levied in such Parish as if this Act had not been passed.

SCHEDULE.

FORM OF SCHEDULE FOR ASSESSMENT OF CHURCH CHARGE.

An Assessment of the Church Charge for the Parish of in the County of made this Day of One thousand eight hundred and after the Rate of Twopence in the Pound.

No.	Name of Occupier.	Name of Owner.	Description of Property liable.	Name or Situation of Property.	Estimated Extent.	Rateable Value.	Church Charge at 2*d.* in the Pound.
					A. R. P.	£ *s.* *d.*	£ *s.* *d.*
1	James Smith - -	John Green - -	Land and Buildings -	Whiteacre Farm -	40 0 0	55 0 0	0 9 2
2	Ditto - -	Ditto - -	House and Garden -	In West Street -	0 1 0	25 0 0	0 4 2
3	John Poor - -	Ditto - - -	House - -	In Brick Lane - -	- - -	1 5 0	0 0 2½
&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.

Declaration of Churchwardens.

We, Thomas Jones and John Thomas, Churchwardens of the above-named Parish, do declare the several Particulars specified in the respective Columns of the above-written Schedule to be true and correct, so far as we have been able to ascertain them, to which End we have used our best Endeavours.

THOMAS JONES, }
JOHN THOMAS, } Churchwardens.

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE TOGETHER WITH COUNTY RATE.

County of to wit.

To the Guardians of the Union.

THESE are to require you, the Guardians of the Union, from and out of the Moneys paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay, on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, the said several Sums being respectively charged and assessed thereon as the Proportion of the several Parishes, Townships, or Places towards the General County Rate, at in the Pound, made at the last Quarter Sessions (*or* General Sessions) of the Peace held at in and for the said County, together with the Amount of the several Sums of Money hereunder set down opposite to the Names of the same Parishes, Townships, or Places, or some of them, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

Names of Parishes.	County Rate at in the Pound.			Church Charge at Twopence in the Pound.		
	£	*s.*	*d.*	£	*s.*	*d.*
Whiteacre - - - -	500	1	3	50	0	4
Blackacre - - - -	100	0	0	10	0	0
Redacre - - - - -	340	1	9	23	2	2

[This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.]

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE ALONE.

County of to wit.

To the Guardians of Union.

THESE are to require you, the Guardians of Union, from and out of the Moneys paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

Names of Parishes.	Church Charge at Twopence in the Pound.

[This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.]

A

B I L L

TO

Amend the Law relating to the Recovery of Church Rates.

WHEREAS it is expedient to amend the Law with respect to the Recovery of Church Rates in England and Wales: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. This Act may be cited as the "Church Rates Act, 1863." Short Title.

2. In this Act the Term "Parish" shall mean and include any Place or District, whether a Parish, District Parish, Chapelry, Ecclesiastical District, or other Ecclesiastical Division in or for which a Church Rate might be made. Interpretation of Terms.

3. Any Law, Statute, or Custom by virtue whereof any Justice of the Peace or any Ecclesiastical or other Court may enforce the Payment of Church Rates in any Parish in England or Wales, by Warrant of Distress upon the Goods and Chattels of any Person making Default in such Payment, is by this Act repealed and shall cease to have any Force or Effect. Power to enforce Payment of Church Rates by Distress to cease.

4. This

Power to make Rates to continue.

4. This Act shall not be construed to prevent the making of Church Rates or the Exercise of any Powers for the Collection of the same other than the Power of enforcing the Payment thereof by Warrant of Distress.

Church Rates may be made for future or past Expenses.

5. The Sums of Money to be raised by any Church Rate may be wholly or in part in respect of Expenses incurred or to be incurred, and also in respect of any unpaid Balance of any former Church Rate.

Rates to continue in case Money raised on their Security.

6. In any Parish in which at the Time of the passing of this Act any Money is due on the Security of Church Rates, or any Annuity is charged upon Church Rates to be made or levied in such Parish under the Provisions of any Act of Parliament, such Rates may still be made, levied, and recovered pursuant to such Provisions until the Money so due and the Interest thereon shall have been paid off and discharged, and until any such Annuity shall have terminated.

Not to affect ChurchRates already made.

7. This Act shall not affect the Recovery of any Church Rate made previous to the passing of this Act.

10 *February* 1863. 26 Vict.

A

BILL

FOR

Voluntary Redemption of Church Rates.

WHEREAS it is expedient to provide Facilities for the voluntary Redemption of Church Rates in England: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The Persons who from Time to Time are and shall be the Charity Commissioners for England and Wales shall be the Commissioners for carrying this Act into effect, and for that Purpose shall be a Corporation, and have perpetual Succession and a Common Seal, under the Name of "The Church Rate Redemption Commissioners," with Power to hold such Real Estate as herein-after mentioned. Charity Commissioners to be Commissioners for this Act.

2. The Inspectors, Clerks, Messengers, and other Officers of the said Charity Commissioners shall act under the Direction of the said Commissioners for the Purpose of carrying this Act into effect; and all reasonable travelling and other Expenses incurred by the said Commissioners and their Officers in the Discharge of their respective Offices under this Act shall be paid in the same Manner as is by Law provided with respect to the Expenses of the Charity Commissioners and their Officers. Inspectors, Clerks, &c. of the said Commissioners to act for the Purpose of carrying this Act into effect.

Commissioners, on having secured to them a yearly Sum sufficient for Payment of Expenses properly payable out of Church Rates of any Parish or District, may declare that no Church Rate shall be raised, except for Sums lawfully charged on Rates.

3. It shall be lawful for the said Commissioners, on having secured to them to their Satisfaction, in manner herein-after mentioned, such a yearly Sum as in their Judgment shall be sufficient for the Payment of the Expenses properly payable out of the Church Rates of any Parish or District having a separate Church Rate, by an Award under their Common Seal to declare that no Church Rate shall thenceforth be raised for such Parish or District, and after the Execution of such Award no Church Rate shall be leviable in such Parish or District accordingly: Provided always, that no such Award shall affect the Security for any Sum of Money lawfully charged on the Church Rates of such Parish or District, and Church Rates shall or may still be made and levied for the Purposes of such Security until the whole Charge shall have been satisfied, as if no Award had been made.

How yearly Sums to be secured to Commissioners.

4. The yearly Sum to be secured to the said Commissioners for the Purposes aforesaid shall be secured to them either by the Investment in their Names of a Sum or Sums in the Three per Centum Consolidated Bank Annuities, or by the Grant of One or more Rentcharges in Fee issuing out of Freehold Lands.

Rentcharges may be granted by Corporations, &c.

5. Rentcharges may be granted for the Purposes aforesaid by Corporations, and by Tenants in Tail or for Life, in possession or receipt of the Rents and Profits of the Lands out of which the Rentcharges are to issue, as well as by Persons absolutely entitled to such Lands; and all Rentcharges so granted by Tenants in Tail or for Life shall be binding, not only on them and their Heirs, but also on all Persons entitled in remainder, reversion, or expectancy after them, or in Defeazance of their Estates.

Act not to affect 9 G. 2. c. 36., commonly called "Mortmain Act."

6. Nothing herein contained shall be deemed to alter or affect the Provisions of the Act of the Ninth Year of King George the Second, Chapter Thirty-six, commonly called "The Mortmain Act," and the Commissioners shall not make their Award as aforesaid until such a sufficient Time shall have elapsed after every Grant of Rentcharge or Gift of Stock that the same shall be no longer capable of becoming void under the said Act; and in case any such Grant or Gift as aforesaid shall become void, by reason of the Death of the Grantor or Donor within the Time mentioned in the said Statute, or otherwise, it shall be lawful for the said Commissioners, if they shall think fit, to release or re-transfer all the other Rentcharges and Sums of Stock contributed by any other Parties for the Purpose of effecting a Commutation of the Church Rate as aforesaid, to the Intent that all Parties may be restored, as nearly as may be, to their former Position, and the Attempt to effect such Commutation abandoned: Provided always

always, that all Rentcharges, and the Dividends of any Stock, after the same shall have been granted or transferred to the said Commissioners as aforesaid, and before the Execution of their Award, shall be by them paid and applied in relief of the Church Rates intended to be commuted, but only for a Period not exceeding *Two* Years.

Notice of Commissioners Award to be fixed on Church Doors.

7. Notice of the Intention to make such Award as aforesaid, specifying the yearly Sum secured to the Commissioners in lieu of Church Rate, shall be fixed on the Door of the Parish or District Church at least *Two* Months before the Execution of the Award.

Award to be deposited with Clerk of the Peace.

8. The Award, when executed, shall be deposited with the Clerk of the Peace of the County, and shall be open to public Inspection at all reasonable Times, on Payment of a Fee of *One Shilling*.

Commissioners to pay yearly Sums secured to them to Churchwardens of Parish or District.

9. The Commissioners shall pay the yearly Sum secured to them as aforesaid by equal half-yearly Payments to the Churchwardens of the Parish or District, to be by them paid and applied as Church Rates would have been payable and applicable.

When yearly Sums shall exceed the Amount required, Surplus may be retained by Churchwardens, &c.

10. In case the yearly Sum secured to the Commissioners as aforesaid for any Parish or District shall in any Year or Years exceed the Amount which the Churchwardens shall require for the Purposes aforesaid, the Surplus may be retained by the Churchwardens, and applied by them to the Purposes aforesaid in subsequent Years: Provided nevertheless, that when such Surplus shall have accumulated so as to amount to the Sum of *One hundred Pounds*, the same shall be returned by the Churchwardens to the Commissioners, who shall invest the same in the Three per Centum Consolidated Bank Annuities, by way of Addition to the Funds or Rentcharge already provided for the Purposes of such Parish or District, but with Power at any Time thereafter, if they shall think fit, to sell out the whole or any Part of such funded Surplus, and pay the Proceeds to the Churchwardens for the Purposes aforesaid.

In estimating yearly Sum, Commissioners to allow for any Provision already existing in relief of the Church Rates.

11. In estimating the Amount of the yearly Sum to be provided by way of Redemption as aforesaid, the said Commissioners shall be at liberty to allow for any Provision already existing in relief of the Church Rates of the Parish or District at such Value as to them shall seem just and reasonable.

Trustees may transfer to Commissioners any Rent-

12. It shall be lawful for any Trustees in whom any Rentcharge, or any Moneys or Funds, or any Lands, now are or hereafter may be vested for the Purpose of applying the same in relief of the Church

charges, &c. vested for the Purpose of Church Rates.

Rates of any Parish or District, to convey and transfer such Rentcharge, Moneys, or Funds to the said Commissioners for the Purposes aforesaid, or to make Sale of and convey such Lands to any Purchaser, and to invest the Purchase Money in the Three per Centum Consolidated Bank Annuities in the Names of the said Commissioners for the Purposes aforesaid, and the Execution by the said Commissioners of the Deed of Conveyance shall be conclusive Evidence that such Sale is effected for the Purposes of and is made valid and effectual by this Act, and that the Purchase Money has been duly applied for the Purposes aforesaid; and upon such Conveyance, Transfer, or Sale as aforesaid all Powers, Duties, and Liabilities of such Trustees in respect of such Rentcharges, Moneys, Funds, or Land shall absolutely cease, except as to past Transactions.

Commissioners may release any such Rentcharges.

13. It shall be lawful for the Commissioners, if they shall think fit, to release any such Rentcharge granted or transferred to them as aforesaid, in consideration of the Transfer into their Names of a Sum in the Three per Centum Consolidated Bank Annuities producing Dividends equal in Amount to such Rentcharge, and also, if they shall think fit, to release any Part or Parts of the Lands out of which any such Rentcharge is issuing from the Payment thereof, without any Consideration, provided the Residue of such Lands shall in their Judgment be sufficient Security for such Rentcharge, and in such Case the Rentcharge shall be wholly chargeable on and issuing out of such Residue of the Lands: Provided always, that no such partial Release shall be made, except with the Concurrence of the Person entitled for such an Estate as would enable him to grant a Rentcharge under this Act out of the Lands remaining charged.

Extent of Act.

14. This Act shall extend to England only.

Civil Bill Courts (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

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Short Title; 2.

Certain Acts and Parts of Acts repealed; 3.

Interpretation of Terms; 4.

Appointment of Bailiffs; 5.

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Penalty of 10*l.* on Bailiffs receiving other than Fees allowed; 11.

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Rescuing Goods, or assaulting Bailiff in Execution of his Duty; 13.

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Bailiffs of Court only to execute Decrees. Executions of Decrees, &c. in Galway and Derry. Preserving Rights of Recorders of Dublin and Cork; 17.

High Bailiff to execute Decrees to Possession; 18.

High Bailiff may seize Bank Notes, &c.; 19.

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Appeal; 27.

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When Cross Decrees between the same Parties, only One to be taken out; 36.

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High Bailiff to appoint Replevingers; 39.

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Repealing Acts of Sheriff in certain Cases; 69.

SCHEDULES.

A

B I L L

TO

Amend the Procedure in the Civil Bill Courts in Ireland.

WHEREAS it is expedient to amend the Course of Procedure in the Civil Bill Courts in Ireland, and to make better Provision for the Execution of the Decrees and Orders of the said Courts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The Provisions of this Act shall come into operation on the *First Day of February One thousand eight hundred and sixty-four.* Commencement of Act.

2. This Act may be cited for all Purposes as "The Civil Bill Courts (Ireland) Act, (1863)". Short Title.

3. From and after the *Commencement of this Act*, the several Acts and Parts of Acts set forth in the Schedule (A) to this Act annexed, to the Extent to which such Acts or Parts of Acts are by such Schedule expressed to be repealed, and every other Act or Acts or such Parts of every other Act or Acts as shall be inconsistent with this Act shall be and they are hereby repealed, except as to anything done before the *Commencement of this Act*, and except so far as any of the said Acts or Parts of Acts repeal any former Certain Acts and Parts of Acts repealed.

Act or Part of an Act; and except also so far as may be necessary for the Purpose of supporting and continuing any Proceeding taken before the *Commencement of this Act*, and except as to the Recovery or Application of any Penalty for any Offence which shall have been committed before the *Commencement of this Act.*

Interpretation of Terms.

4. In the Construction of this Act, the following Words and Expressions shall have the Force and Meaning hereby assigned to them, unless there be something in the Subject or Context repugnant thereto:

The Word "Person," or "Party," shall extend to and include any Body politic, corporate, or collegiate, and whether aggregate or sole, and any Public Company:

The Word "Lands" shall include Houses, Messuages and Tenements, and Premises, whether corporeal or incorporeal; and the Word "Premises" shall include Lands, Houses, and Tenements, corporeal or incorporeal:

The Word "County" shall extend to and include a County of a City, a County of a Town, a Town, a City, a Borough, and Riding of a County:

The Word "Decree" shall mean a Decree or Dismiss, or any Order for the Payment of Money of the Civil Bill Court, or any Order for a Writ of Restitution:

The Word "Defendant" shall mean the Person or Party whose Body, Goods, or Chattels may be taken under any Decree or Order:

The Word "Bailiff" shall include High Bailiff, or other Person assisting in the Execution of any Decree or Order:

The Words "Process of the Court" shall include any Decree, Dismiss, Order, or Writ of the Court, or other Proceeding of the Court:

The Word "Plaintiff" shall include not only the Plaintiff in any Decree, but also such Person who by any Order or Writ may be entitled to receive the Possession of any Land, Chattel, or Money.

Appointment of Bailiffs.

5. For every County in Ireland there shall be *One* or not more than *Two* High Bailiffs, as specified in the several Parts of Schedule (B.) to this Act annexed, whom the Chairman of the Quarter Sessions of such County shall be empowered, by Writing under his Hand, to appoint, and by like Writing to remove in case of the Inability or Misbehaviour of any such High Bailiff, or his becoming bankrupt or insolvent, or being convicted of any Felony or Misdemeanor; and every such High Bailiff shall be empowered (subject to the Restrictions herein-after contained), by any Writing under his Hand, to

to appoint a sufficient Number of able and fit Persons, not exceeding such Number as shall be from Time to Time allowed by the Judge of the said Court, to be Bailiffs to assist the said High Bailiff, and at his Pleasure to dismiss all or any of them and appoint others in their Stead; and every Bailiff so appointed may also be suspended or dismissed by the Judge of the Court: Provided always, that the Appointment of such Assistant Bailiffs shall not be vacated by the Death or Removal of the High Bailiff, but their Acts done after such Death or Removal shall be as valid as if the High Bailiff had not died or been removed and had authorized their Acts, and they shall continue to act until they shall be dismissed by the Successor of the High Bailiff or by the Judge; and they shall be paid for their Services during the Period they shall so act after the Death or Removal of the High Bailiff the same Wages as they were receiving at the Date of such Death or Removal, and such Wages shall be paid out of the Salary and Allowances attached to the Office of High Bailiff: Provided also, that not more than One High Bailiff shall be appointed for any of the Counties specified in the Fourt Part of the said Schedule (B.) without the Consent and Approval of the Lord Lieutenant or other Chief Governor or Governors of Ireland.

High Bailiff not to act as Attorney.

6. No High Bailiff or other Officer of the Court shall, either by himself or his Partner, be directly or indirectly engaged as Attorney or Agent for any Party in any Proceeding in the Court of which he is such Officer; and every Person who being such High Bailiff of a Civil Bill Court shall be by himself or his Partner, or in any Way directly or indirectly concerned as Attorney or Agent for any Party in any Proceeding in the Court of which he is the High Bailiff, shall for every such Offence forfeit and pay the Sum of *Fifty Pounds* to any Person who shall sue for the same by Civil Bill; and no Person during the Time that he fills the Office of High Bailiff shall be a Sheriff, Sub-Sheriff, Coroner, Baronial Constable, Poor Law Guardian, Collector of Grand Jury Cess, Collector of Poor Rates, or Collector of any other public Rate or Cess.

Penalty for High Bailiff acting as Attorney.

High Bailiff not to be Sub-Sheriff, &c.

High Bailiffs to give Security for the due Performance of their Duties.

7. The High Bailiff of every Court to be appointed under this Act shall give Security for such Sum in such Manner and Form as the Lord Lieutenant for Ireland from Time to Time shall order for the due Performance of his Office, and for the due accounting for, and Payment of all Monies received by him as such High Bailiff, or which he may be liable to pay for any Neglect, Omission, or Misbehaviour in his Office.

Duties of the High Bailiffs.

8. The High Bailiff shall attend every Sitting of the Civil Bill Court at Quarter Sessions for such Time as shall be required by the Judge of that Court, unless when his Absence shall be allowed for

reasonable Cause by the Judge, and shall by himself or by the Bailiffs appointed to assist him execute all the Decrees, Dismisses, and Orders issued out of the said Court, or any Warrant signed by the Judge of the said Court; and the said High Bailiff shall, in the Execution of his Duties, conform to all such general Rules as shall be from Time to Time made for regulating the Proceedings of the Court as herein-after provided, and subject thereunto to the Order and Direction of the Judge of the Court. And the said High Bailiff shall be entitled to receive all Fees and Sums of Money allowed by this Act, in the Name of Fees payable to the High Bailiff, out of which he shall provide for the Execution of the Duties for which such Fees are allowed, and for the Payment of the Bailiffs appointed to assist him, according to such Scale of Remuneration as shall be from Time to Time approved by the Judge; and every such High Bailiff shall be responsible for all the Acts and Defaults of himself and of the Bailiffs appointed to assist him as the Sheriff of any County in Ireland is responsible for the Acts and Defaults of himself and his Officers in the Execution of any Writ or Process out of the Superior Courts in Ireland.

Salaries to be paid to High Bailiffs.

9. The High Bailiff of each County or Division, if more than One, shall receive the annual Salary mentioned and specified in the Schedule (B.) to this Act annexed, in addition to the several Fees appointed by this Act to be paid to him, and the same shall be paid by Four quarterly Payments, on every Twenty-fifth Day of March, Twenty-fourth Day of June, Twenty-ninth Day of September, and Twenty-fifth Day of December in each and every Year, the First Payment thereof to be made on the *Twenty-fifth Day of March One thousand eight hundred and sixty-four*, and the same shall be paid out of such Monies as may be provided by Parliament for that Purpose: Provided always, and it is hereby expressly declared, that should it happen that Two High Bailiffs be appointed for any One County, then in every such Case the annual Salary payable to each of such Two High Bailiffs shall not exceed the Sum fixed to be paid to a High Bailiff for a Third-class County, as in the said Schedule (B.) is stated and set forth.

Fees to be taken by High Bailiffs according to the Schedule (C).

10. There shall be payable to the High Bailiffs of the several Civil Bill Courts in Ireland such Fees as are set down in the Schedule (C.) to this Act annexed, and none other, and a Table of such Fees shall be put and maintained in some conspicuous Place in every Court House in each County where a Court for hearing of Civil Bills is held, and in the Office of the High Bailiff and in the Office of Clerk of the Peace, and such Fees shall be paid in the first instance by the Plaintiff or Party on whose Behalf such Proceeding is to be had, on or before the Delivery of the same to the High Bailiff; and in default of Payment of such Fees the High Bailiff may refuse to execute the same.

11. Any

11. Any High Bailiff, Bailiff, or other Officer empowered to execute any Civil Bill Decree or Order, who shall demand or receive from any Person whomsoever any Sum of Money or Gratuity of any kind soever other than the Fees legally payable on the Execution of any such Decree or Order, or who shall permit or suffer any one on his Behalf to receive the same, shall be liable to pay the Sum of *Ten Pounds* to any Person who may sue for the same by Civil Bill.

Penalty of 10*l.* on Bailiff's receiving other than Fees allowed.

12. If any High Bailiff or other Bailiff, or any Assistant of any Bailiff of the Civil Bill Court, acting under any Decree or Order of the Civil Bill Court, or under Colour or Pretence of the Process of the said Court, shall extort any Money, any Security for Money, or any Chattel, or any other Matter or Thing whatsoever, or shall not duly pay or account for all Moneys levied by him under the Authority of of the Process of the Court, such Person so offending shall be guilty of a Misdemeanor, punishable by a Fine or Imprisonment or both, and in any Indictment for any of such Offences it shall only be necessary to aver that the Party charged with the Offence was a Bailiff of a Civil Bill Court, and that under or under Colour of the Process of the Civil Bill Court he did extort Money, or Security, or other Chattel, as the Case may be, or that having received Moneys under the Decree or Order of the Court he did not pay over or account for the same.

Bailiff's extorting, guilty of Misdemeanor.

13. Whosoever, with Intent to hinder or prevent the due Execution of any Civil Bill Decree or Order, shall by Threat of Violence to or Restraint of the Person of any Bailiff in the Execution of his Duty, under such Civil Bill Decree or Order, compel or induce such Bailiff to abandon any Seizure of the Person or Goods of the Person against whom said Decree or Order shall be made, and previously taken by him as such Bailiff under such Decree or Order, or compel or induce him not to seize or take the Body or Goods of such Person as aforesaid, or who shall assault any Bailiff while in the Execution of any Civil Bill Decree while in the Execution of his Duty as such Bailiff, or who shall rescue or attempt to rescue the Body or Goods of any such Person taken or seized under a Civil Bill Decree or Order, shall be guilty of a Misdemeanor, and upon Conviction shall be liable to be imprisoned for a Period not exceeding *Two* Years, with or without Hard Labour.

Rescuing Goods, or assaulting Bailiff in execution of his Duty.

14. Whenever Two High Bailiffs shall be appointed for any One County the Appointment shall specify the Division or Divisions of said County for which each High Bailiff shall be appointed, and the High Bailiff appointed for any One or more Divisions of a County shall discharge all the Duties of a High Bailiff within that Division or Divisions to which he shall be so appointed, and shall receive and

When Two High Bailiffs, the Appointment to be for Divisions.

be entitled to receive and take all the Fees and Emoluments of the said Office arising out of Proceedings in such Division or Divisions to which he shall be appointed High Bailiff; and the High Bailiff shall reside in the County to which he is appointed High Bailiff; and should there be more than One High Bailiff then the High Bailiff for the Division of the County shall reside within the Division or within One of the Divisions of the County to which he is appointed; and each High Bailiff is required, and he shall have an Office in the principal Town of the County or Division of which he is the High Bailiff, or in such other Place as the Judge of the Court shall direct and appoint, and such Office shall be kept open for the Transaction of Business from Ten o'Clock in the Morning till Four o'Clock in the Afternoon on every Day in the Year except Sundays, Christmas Day, and Good Friday.

Bailiffs to reside and keep Office.

Form of Award of Execution in Decree.

15. The Award of Execution in every Decree, Dismiss, or Order, of a Civil Bill Court in Ireland for the Payment of any Debt, Damages, Expenses, or Costs, shall be in the following Form in lieu and instead of the Award of Execution heretofore used; viz.:—

'And the several High Bailiffs of the respective Counties in 'Ireland are hereby commanded to take in execution the [Body, or 'Goods and Chattels, as the Case may be,] of the Defendant[s], to 'satisfy the said Debt and Costs [or Damages and Costs, or Ex- 'penses or Costs, as the Case may be], in pursuance of the above 'Decree, Dismiss, or Order, and of the Precept of the Clerk of the 'Peace hereunto annexed, or of the Precept of the Clerk of the 'Peace of the County or Riding where such Goods or Body of the 'Defendant [as the Case may be] shall be found.'

Abolishing Warrant and Signature of Sheriff, and giving Form of Precept by Clerk of the Peace.

16. It shall not be necessary that any Decree or Order of any Civil Bill Court shall have annexed thereto a Warrant from the Sheriff for the Execution thereof; nor shall any Fee be hereafter paid or payable to the Sheriff for signing any Warrant or Precept for the Execution of the same, or for the levying of any Costs; but at the Foot of every Decree or Order there shall be a Precept, signed by the Clerk of the Peace, and which he is hereby required to sign, directed to the High Baliiff of the Court, and his Assistants, authorizing any One or more of them to execute the said Decree; and such Precept shall be sufficient Authority for the Execution of the said Decree against the Goods or Body of the Defendant in the said Decree named; and such Precept shall be in the Form following:

'County of
'
'_____
'Decree (or Order), and to levy thereunder the sum of £ The High Bailiff, and his Assistant Bailiffs, of this County, and their Assistants, are required and commanded to execute the above

'for

'for Debt, (or Damages), Expenses, and Costs (or Costs and 'Expenses, or either, as the Case may be); and the Sum of 'for Execution Fees.

'Witness my Hand and Seal,
'*Z. Y.*, Clerk of the Peace for the said County of .'

Bailiffs of Court only to execute Decrees.

17. All Decrees and Orders of the Civil Bill Courts, or of the Judge of Assize on Appeal, in Ireland, shall be executed by the High Bailiff, or by the Assistant Bailiffs, of the Civil Bill Courts; and no Person shall be authorized or empowered to execute any Decree or Order of the Civil Bill Courts, or to levy or to take in execution the Body or Goods of any Person under the same, unless he shall have been appointed such High Bailiff, or Assistant Bailiff, as aforesaid: Provided always, that whenever the High Bailiff or any Assistant Bailiff shall be a Party in any Civil Bill Suit or Proceeding, and that any Decree, Dismiss, or Order shall be made therein in favour or against such High Bailiff, or Assistant Bailiff, it shall be lawful for the Judge of the Court to appoint a Special Bailiff for executing such Decree, Dismiss, or Order, and the Precept of the Clerk of the Peace shall be directed to such Special Bailiff, who shall be entitled to receive and have the Bailiff's Fees for executing the same; and the High Bailiff and his Assistant Bailiffs for the County of Galway shall execute all Civil Bill Decrees and Orders issuing out of the Court of the Recorder of Galway, and the High Bailiff for the County of Londonderry and his Assistant Bailiffs shall execute all Civil Bill Decrees and Orders issuing out of the Court of the Recorder of Londonderry: Provided also, that nothing in this Act shall be deemed or taken to alter the Mode of Appointment of the Officer of the Courts of the Recorder of Dublin or the Recorder of Cork, for the Service or Execution of the Process, Decrees, or Orders of these respective Courts, and the Precept for the Execution of the Decrees and Orders of the said Courts of the Recorders of Dublin and Cork may be signed by the Officers of said Courts respectively, as the said respective Recorders shall direct; and the Form of the Award of Execution in any Civil Bill Decree or Order issuing out of the said Courts of the Recorders of Dublin and Cork shall be in such Form as the said respective Recorders shall direct; and if any Doubt shall arise in the Application of this Act as to the Form of Decree or Order or Precept, or as to what Officers of the said Courts of the Recorder of Dublin and Recorder of Cork shall correspond with those named in this Act, under any Proceeding by Civil Bill, it shall be lawful for the Recorders of the City of Dublin and Cork respectively to determine the same.

Executions of Decrees, &c., in Galway and Derry.

Preserving Rights of Recorders of Dublin and Cork.

14 & 15 Vict. c. 57. s. 158.

High Bailiff to execute Decrees to Possession.

18. All Civil Bill Decrees for the Possession of Land, and all Orders made by any Judge of Assize upon Appeal from any Decree or Dismiss relating to the Possession of Land, and under which the Possession of Land may be given or taken; and all Writs of Restitution for the restoring of the Possession of Land, issuing out of any Civil Bill Court in Ireland, under the Provisions of "The Landlord and Tenant Law Amendment Act, Ireland, 1860," or otherwise, shall be executed by the High Bailiff of the Court, and not by any other Person; and the said High Bailiff shall execute such Decree, Order, or Writ within *One Fortnight* after the same shall have been delivered to him; and such Decree, Order, or Writ of Restitution shall be a sufficient Warrant to the said High Bailiff to enter upon the Premises therein mentioned, with such Assistants as he shall deem necessary, and to take and give Possession thereof accordingly; and in every Decree for the Possession of Land the High Bailiff of the County shall be commanded to put the Plaintiff into the Possession of the same; and in every Writ of Restitution the said High Bailiff shall be commanded to put the Party in said Writ entitled to be restored to the Possession into the Possession of the Land in said Writ mentioned; and whenever the High Bailiff shall be a Party to any Proceeding in Ejectment by Civil Bill, the Decree to Possession or the Writ of Restitution in such Proceeding shall not be executed by the High Bailiff; but such Decree or Writ shall be directed to a Special Bailiff, to be named by the Judge of the Court, who shall be commanded to execute the same, and no other Person shall execute the same; and such Special Bailiff shall have all the Powers and Authority hereby conferred on the High Bailiff for giving or taking Possession under any Civil Bill Decree or Writ of Restitution: Provided always, that where, in any Decree to Possession, or in any Dismiss in any Ejectment Case, Costs shall have been awarded, and where the Execution of such Decree, Dismiss, Writ of Restitution, Order, Affirmance or Reversal thereof, is only sought for the levying of Costs therein awarded, the Warrant or Precept for the Levy of such Costs may be executed by any of the Assistant Bailiffs of the said Court; and in case the High Bailiff or any Assistant Bailiff should be a Party thereto, then by a Special Bailiff to be named by the Court, as herein-before is provided for the Execution of Civil Bill Decrees and Orders; and the High Bailiffs of the Courts in the respective Counties shall execute the Decrees mentioned in the Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, Section Eighty-four, in lieu and instead of the Sheriffs of the respective Counties in the Manner and as in the said Section is mentioned, and all and singular other the Provisions of the said Section shall apply to the High Bailiff of the respective Counties, as directed by the said Section of the said Act to Sheriffs: Provided always, that no Entry shall

23 & 24 Vict. c. 154.

23 & 24 Vict. c. 154. s. 92.

Civil Bill Act, 14 & 15 Vict. c. 57. s. 84.

shall be made upon any Premises under any such Decree, Order, or Writ, for the Purpose of taking Possession thereof, except between the Hours of Nine in the Morning and Four in the Afternoon, and no Entry shall be made on a Sunday, Good Friday, or Christmas Day.

High Bailiff may seize Bank Notes, &c.

19. The High Bailiff or other Officer executing any Decree or Order may seize and take the Goods and Chattels, Money or Bank Notes, whether of the Bank of Ireland or of any other Bank, and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialities, or Securities for Money belonging to any Person against whom any Execution in the said Decree or Order shall have issued; and the High Bailiff shall hold any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialities, or other Securities for Money, which shall have been so seized or taken as aforesaid, as a Security or Securities for the Amount directed to be levied under such Decree or Order, or so much thereof as shall not have been otherwise levied or raised for the Benefit of the Plaintiff or other Party entitled under such Decree or Order. And the Plaintiff or the Party entitled under such Decree or Order may sue in the Name of the Defendant, or in the Name of any Person in whose Name the Defendant might have sued, for the Recovery of the Sum or Sums secured or made payable thereby, when the Time for Payment thereof shall have arrived.

High Bailiff to keep Books.

20. Every High Bailiff shall keep Books, One of which shall be called the Ejectment Book, and he shall enter in such Book the several Decrees and Orders for Possession and the Writs of Restitution which may be delivered to him for Execution, specifying the Parties Names thereto, the Name of the Lands, and the Barony in which the same are situated, the Date of the Decree or Order, or Writ of Restitution, when the same was delivered to him for Execution, and when and how the same was executed, and, in Cases for the Non-payment of Rent, the Sum endorsed on such Decree or Order as due for Rent, and if the said Decrees, Orders, and Writs of Restitution have not been executed, the Cause of the Non-execution thereof shall be stated; and one other of the said Books shall contain Entries of all Decrees and Orders given to him for Execution, specifying the Names of the Parties, the Sums due on Foot thereof for Debt, Damages, Expenses, and Costs, and the Sums payable for Bailiff's Fees, and the precise Time and Hour when the same was delivered for Execution, and when and how executed, and, if not executed, why the same was not executed; and when more than One Decree or Order shall be given to him for Execution against the same Person, the said High Bailiff shall execute the same in the Order of Time that the same were delivered to him, and as set out in the said Book. And whenever the High Bailiff shall not execute and levy any Civil Bill Decree to Possession, Writ of Restitution, Decree, or Order of the

High Bailiff to endorse Decree, Writ, &c.

when not executed, and to deliver same back.

Civil Bill Court delivered to him for Execution, he shall endorse thereon the Reason why the same was not so executed, and he shall, at the Request of the Plaintiff, or such other Person as may be entitled to demand the same from him, deliver back such Decree, Writ, or Order so endorsed, when he shall be required to do so; and the said High Bailiff shall deliver into the Office of the Clerk of the Peace, on the First Day of the Sessions in the Month of *January* in each Year, a Duplicate Copy of the said Books.

In Case of Illness, &c., a Deputy High Bailiff may be appointed.

21. It shall be lawful for the High Bailiff of any Civil Bill Court, with the Approval of the Judge of the Court, or, in case of Inability of the High Bailiff to make such Appointment, for the Judge of the Court, to appoint from Time to Time a Deputy High Bailiff to act for the said High Bailiff when he the said High Bailiff shall be prevented by Illness, unavoidable Absence, or from any other Necessity which may prevent him from acting in his Office of High Bailiff, and upon the Necessity for appointing such Deputy the said Judge of the Court alone shall decide; and such Deputy, while acting under such Appointment, shall have the like Powers and Privileges, and be subject to the like Provisions, Duties, and Penalties for Misbehaviour, as if he were the High Bailiff for the Time being, and he may be removed by the Judge of the Court at his Pleasure.

Powers of Sheriffs vested in High Bailiff for Execution of Civil Bill Decrees, &c.

22. The High Bailiff of every Civil Bill Court in Ireland and his Assistant Bailiffs shall have, in the Execution of the Decrees, Dismisses, and Orders of such Courts, all and every the Powers, Privileges, and Rights which the Sheriffs of the several Counties in Ireland have in the Execution of all Writs delivered to them out of the Superior Courts in Ireland for Execution; and all Constables and other Peace Officers within their several Jurisdictions, and all and every other Person or Persons whom the Sheriff of the County would be empowered to call upon to aid and assist him in the Execution of any Writ, shall aid the High Bailiff in the Execution of every Decree, Dismiss, or Order of the Civil Bill Court; and the Sheriff, Gaoler, or Keeper of every Gaol, House of Correction, Bridewell, and Prison, shall be bound to receive and keep the Defendant in every such Decree or Order, when taken in Execution under the same, until discharged by due Course of Law, as such Sheriff, Gaoler, and Keeper was heretofore bound to do.

Regulating the Sale of goods taken in Execution.

23. No Sale of any Goods which shall be taken in Execution under any Civil Bill Decree, Dismiss, or Order shall be sold until after the End of *Five* Days at least next following the Day on which such Goods shall have been so taken, unless such Goods be of a perishable Nature, or upon the Request in Writing of the Party whose Goods shall have been taken; and until such Sale the Goods shall be deposited by the Bailiff in some fit Place, or they may remain in the

the Custody of a fit Person approved of by the High Bailiff, to be put in possession by the Bailiff; and it shall be lawful for the High Bailiff, from Time to Time as he shall think proper, to appoint such and so many Persons for keeping possession thereof.

High Bailiff answerable for Escapes and Neglect.

24. In case any Bailiff of the Court who shall be employed to levy any Execution against any Goods and Chattels shall, by Neglect or Connivance or Omission, lose the Opportunity of levying any Execution of any Civil Bill Decree, Dismiss, or Order, then, upon Complaint of the Party aggrieved by reason of such Neglect, Connivance, or Omission, (and the Fact alleged being proved to the Satisfaction of the Judge of the Court, on the Oath of any credible Witness,) the Judge shall order the High Bailiff or the Bailiff, as he may think fit, to pay such Damages as it shall appear that the Party aggrieved has sustained, not exceeding in any Case the Sum of Money for which the said Decree or Order and Precept annexed thereto issued, and the High Bailiff or Bailiff shall be liable thereto; and such Order shall have the same Force and Effect as a Civil Bill Decree duly pronounced.

Execution to be superseded on Payment of Debt and Costs.

25. If the Party against whom any Execution under any Civil Bill Decree, Dismiss, or Order shall be issued shall, before an actual Sale of the Goods and Chattels, pay or cause to be paid or tendered unto the High Bailiff or the Bailiff holding the Decree, Dismiss, or Order, with Precept of Execution thereunto annexed, such Sum of Money and Costs therein specified to be levied, or such Part thereof as the Person entitled thereto shall agree to accept in full of his Debt or Damages and Costs, together with the Fees in the same directed to be paid, the Execution of the said Decree, Dismiss, or Order shall be superseded, and the Goods and Chattels of the said Party shall be discharged and set at liberty; and any Person imprisoned or taken into Custody under any such Decree or Order, who shall have satisfied the Debt or Demand, and Costs and Charges, shall be discharged out of Custody.

Priority of Executions issuing out of Superior Court and County Court.

26. When a Writ against the Goods of a Party has issued from a Superior Court, and a Decree or Order against the Goods of the same Party has issued from the Civil Bill Court, the Right to the Goods seized shall be determined by the Priority of the Time of the Delivery of the Writ to the Sheriff to be executed, and the Delivery of the Decree or Order, with the Clerk of the Peace's Precept at Foot thereof, to the High Bailiff for Execution; and the Sheriff or Under Sheriff, on Demand, shall by Writing under his Hand, or by any Writing signed by any Clerk in the Office of the Sheriff or Under Sheriff, inform the High Bailiff of the precise Time of such Delivery

of the Writ, and the High Bailiff, on Demand, shall show his Decree or Order to any Sheriff's Officer; and such Writing, purporting to be so signed, and the Decree or Order and Precept at Foot thereof, shall respectively be sufficient Justification to any High Bailiff or Sheriff acting thereon.

Appeal.

27. Every Person who, previous to the passing of this Act, would be entitled to lodge an Appeal against any Decree, Dismiss, or Order of a Civil Bill Court, by depositing the Money decreed against him with the Sheriff, shall and may, after the *passing of this Act*, be entitled to Appeal in like Manner by depositing with the High Bailiff the Sum which he would have been required heretofore to deposit with the Sheriff if this Act had not passed, and by performing all other the Requisites required by him to be done and performed under the One hundred and twenty-eighth Section of the Fourteenth and Fifteenth Victoria, Chapter Fifty-seven; and the High Bailiff is hereby required to perform all the Matters and Things directed to be done by the Sheriff under the said Section, and to stop and forbear executing the said Decree or Order as in the said Section the Sheriff was required and bound to do: Provided always, that whenever a Party shall deposit Money with the High Bailiff by way of Appeal, the said High Bailiff shall not stop the Proceedings on Foot of the said Decree or Order so intended to be appealed against, unless the Affidavit of the Party required to be made by the Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, Section One hundred and twenty-nine, shall have been lodged with him as is directed to be lodged with the Sheriff under the said last-mentioned Section; and the said High Bailiff shall transmit the same, when so lodged with him, to the Clerk of the Peace, as the said Sheriff was required by the said Section so to do.

All Decrees in force to continue so, but to have Precept.

28. All Decrees or Orders which might be enforced when this Act shall come into operation may be enforced, and the Body or Goods of the Defendant therein named taken in Execution thereunder, according to the Exigency thereof, provided the same shall have at the Foot thereof the Precept of the Clerk of the Peace directing the Execution thereof; and the Clerk of the Peace is hereby required to annex such Precept to such Decree or Order as if the same had issued since the passing of this Act; and when such Precept shall be so annexed, the same may be executed by the High Bailiff or other Bailiffs of the Civil Bill Courts in Ireland, notwithstanding that the Award of Execution in the Body of the said Decree or Order may be directed to the Sheriffs of the different Counties in Ireland; and all Decrees, Dismisses, Orders, and Renewals, which might have been renewed when this Act comes into

into operation, shall and may be, after this Act comes into operation, renewed according to the Provisions of the said last-mentioned Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, and any other Act relating to the same; and the Award of Execution in any Renewal of any Decree, Dismiss, or Order shall be as herein is provided for Decrees to be pronounced after the Commencement of this Act, and such Renewals shall have the Precept for Execution annexed thereto as herein is provided.

High Bailiff or his Assistant Bailiffs may sell Goods, &c.

29. The High Bailiff or One of his Assistant Bailiffs shall have full Power and Authority to sell Goods taken in Execution by him or others, without the Assistance of a Licensed Autioneer: Provided always, the High Bailiff shall be answerable for the due and proper Care and Sale of such Goods so taken to the same Extent as Sheriffs in Ireland are answerable for the Care and Sale of Goods taken in Execution under Writs out of the Superior Courts.

Judge of Assize on Appeal may reserve a Question of Law for Consideration of the Judges of the Superior Courts.

30. If it should appear to any Judge of Assize, upon the Hearing of any Civil Bill Appeal, that a Question of Law arising in such Case is a fit and proper Question for the Consideration of the Judges of the Superior Courts, it shall be lawful for such Judge of Assize to direct that a Case shall be stated for the Opinion of One of the Superior Courts of Law, to be named by the said Judge, and such Case shall be signed by the said Judge and shall be set down for Argument by the Appellant within *Ten* Days after the Judge shall have signed it, and the said Court shall decide upon the Question of Law so reserved upon such Appeal, and reverse or affirm the Decree or Order, in the same Manner as the Judge so reserving such Question might or could have done, with or without Costs, as such Court shall think fit; and if the Appellant shall fail to set down the Case within the Time above mentioned, the Decree or Order shall stand confirmed, with Costs.

Minors may sue for Wages without Next Friend.

31. It shall be lawful for any Person under the Age of *Twenty-one* Years to prosecute any Suit by Civil Bill for any Sum of Money, not greater than *Twenty Pounds*, which may be due to him for Wages or Piece Work, or for Work as a Servant, in the same Manner as if he were of full Age.

No Suit in Superior Court on a Civil Bill Decree.

32. No Action or other Proceeding shall be brought in the Superior Courts of Common Law in Ireland upon any Decree, Dismiss, or Order of any Civil Bill Court in Ireland: Provided always, that nothing herein contained shall be deemed to repeal or alter the Seventeenth and Eighteenth Sections of the Act passed in Twelfth and

Thirteenth Years of Her Majesty, Chapter One hundred and four, for filing and enrolling as Judgments of the Superior Courts Civil Bill Decrees for the Recovery of Poor Rates.

Clerk of the Peace to deliver a Duplicate of Jurors Book to High Bailiff.

33. The Clerk of the Peace shall, at the Time that he is by Law obliged to deliver to the Sheriff the Jurors Book in each Year, also deliver to the High Bailiff of each County and Division a Duplicate Copy thereof, and all Persons to be summoned for the Trial of any Civil Bill Proceeding shall be taken from the said Book.

Summoning Jury.

34. In all Actions by Civil Bill, other than Ejectment and Replevin, when the Amount claimed shall exceed the Sum of *Twenty Pounds*, and when by any Act of Parliament a Jury is directed to be empannelled to try a Case before the Judge of the Civil Bill Court, it shall be lawful for the Plaintiff or Defendant or other Party interested therein to require a Jury to be summoned to try the said Action; and such Jury shall be summoned in the Manner herein-after mentioned; that is to say, the Party requiring a Jury to be summoned shall, *Eight* Days previous to the First Day of the Sessions at which said Jury may be so required, give to the High Bailiff, or leave at his Office, a Notice in Writing, setting forth that a Jury was demanded by such Party for the Trial of such Action; and such Notice shall contain the Names of the Parties to the said Action, and the Sessions to which the said Process is returnable; and the High Bailiff shall cause so many of the said Jurors as in his Opinion shall be sufficient, but not less than *Twelve*, to be summoned to attend the said Court at the Time and Place mentioned in the Summons; and all the several Proceedings, Enactments, Fines, and Provisions contained in the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, Section One hundred, applicable to summoning a Jury, and the Hearing of the Case by a Jury, and all other Matters and Things therein contained, save and except as appertains to the Sheriff, shall be and are hereby applicable to the summoning of a Jury by the High Bailiff as above mentioned; and every Party requiring a Jury to be summoned shall, at the Time of giving the said Notice, and before he shall be entitled to have such Jury summoned, pay to the High Bailiff the Sum of *Five Shillings* for Payment of the Costs of summoning such Jury, and such Sum shall be Part of the Costs incident to the hearing of the Civil Bill, unless otherwise ordered by the Judge of the Court.

Deposit of 5*s.* on applying for Jury.

Where High Bailiff a Party, and Jury required, Case

35. If any Action shall be brought by or against the High Bailiff of any Civil Bill Court in the Court to which he is atttached as High Bailiff, and if either Party to such Suit shall be entitled to have the same tried by a Jury, and is desirous that the same shall be tried

tried by a Jury, the Judge of the Civil Bill Court in which said Suit shall be then pending shall, at the Request of either Party to such Suit, make an Order that the Cause may be sent for hearing to the Court of some convenient and adjoining County, and the Clerk of the Peace shall make out an Order to that Effect, and the same shall be entered for hearing as an ordinary Civil Bill in the Court Book of the County to which the same shall be so sent, and heard as an ordinary Civil Bill; and upon the Production of such Order to the Chairman of the Court to which the said Cause shall be so sent for hearing, he shall have full Power to try and hear the Case so sent to him for hearing, and he shall hear the Case as any ordinary Civil Bill entered for hearing before him, though neither Party to the said Suit shall reside in his County; and the Production of such Order shall be deemed Proof that the Process was duly served, and a Jury may be summoned in such County in the Manner herein-before provided for summoning Juries: Provided always, that it shall not be lawful for any High Bailiff to summon any Jury to try and hear any Case in which he the said High Bailiff is a Party to the same.

to be heard in next County.

36. If there shall be Cross Decrees or Orders between the same Parties at the same Sessions, Execution shall be taken out by that Party only who shall have obtained a Decree or Order for the larger Sum, and for much so only as shall remain after deducting the smaller Sum, and the Clerk of the Peace shall write upon the Face of the Decree or Order the Amount of the smaller Decree or Order which shall be so deducted, and he shall enter in the Court Civil Bill Book the Fact of such Deduction; and if both Sums due on Foot of such Cross Decrees or Orders for Debt, Damages, Expenses, and Costs shall be equal, no Precept for Execution shall issue, but the Clerk of Peace shall enter in the Civil Bill Book the Fact of the Cross Decrees or Orders being equal in Amount, and also endorse on the said Decrees the Fact that the one was set off against the other, and that no Execution should issue thereon.

When Cross Decrees between the same Parties, only One to be taken out.

37. In all Cases where a Decree or Order, with Award of Execution thereon, shall have issued against the Goods and Chattels or against the Body of any Party, and such Party or his Goods and Chattels shall be out of the Jurisdiction of the Court making such Decree or Order, it shall be lawful for the Clerk of the Peace of the County in which such Party or his Goods and Chattels may happen to be, at any Time after the making of such Decree or Order, and while the same is in force, to endorse on the said Decree or Order his Precept directed to the proper Officer for executing Civil Bill Decrees and Orders within his County or Riding to execute the same, and such Decree or Order may then be executed just as if the Decree had issued forth from the Court of the said County in the first instance:

Backing Decrees when Goods, &c. in another County.

Provided always, that such Decree shall have annexed to it the Precept of the Clerk of the Peace of the County where such Decree or Order was originally pronounced.

High Bailiffs empowered to grant Replevins.

38. The High Bailiff of every Civil Bill Court in Ireland shall have full Power and Authority to grant, within his District, Civil Bill Replevins in Cases of Distresses for Non payment of Rent, and to make Deliverances of all Distresses made for Nonpayment of Rent, in the same Manner as Sheriffs were and are empowered by Law so to do; and the Powers and Responsibilities of the Sheriff with respect to Civil Bill Replevins and Civil Bill Replevin Bonds shall, after the *Commencement of this Act*, cease, except as to assigning any Replevin Bond which may have been executed to him before the *Commencement of this Act*, and except as to any Responsibility which may have existed or might exist by reason of anything done by any Sheriff before this Act shall have come into operation.

High Bailiff to appoint Replevingers.

39. The High Bailiff for the Time being for every County, County of a City, or County of a Town in Ireland, shall, within *Ten* Days after his Appointment as such High Bailiff, depute a sufficient Number of Persons in such County, County of a City, or County of a Town, to act as Replevinger or Replevingers for the Civil Bill Courts, in Cases of Distress for Rent, so that there shall be at least One Replevinger in every Town wherein General or Quarter Sessions of the Peace are held, and in such other Towns and Places as he may be required or directed by the Judge of the Civil Bill Court; and such Replevinger or Replevingers so to be appointed as aforesaid shall have Authority in the Name of the High Bailiff to grant Civil Bill Replevins, and make Deliverances of all Distresses, in such Manner and Form as were heretofore made by the Sheriff, and as the Sheriff might and ought to do, and shall be entitled to receive the Fees in that Behalf mentioned in the Schedule (C.) hereunto annexed, and no more: Provided always, that nothing herein contained shall be deemed to confer any Power or Authority upon the High Bailiff or upon his Replevinger to grant any other Replevins than a Civil Bill Replevin, or to make any Deliverance of a Distress other than that made for Rent, and then only under the Order of the Clerk of the Peace as herein and under the Provisions of an Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, Section Forty-three, is provided; and in default of appointing such Replevingers the High Bailiff shall be subject and liable to pay the Penalties imposed on defaulting Sheriffs, as in the said last-mentioned Act, Section Forty, is mentioned: Provided also, that in case of the Death or Removal of any High Bailiff the Replevingers so appointed by such High Bailiff shall continue to act as such Replevingers as aforesaid,

aforesaid, and shall grant Replevins, and make Deliverance of all Distresses, in the Name of the Clerk of the Peace of the County, until a new High Bailiff shall be appointed.

Order of Clerk of Peace to be directed to High Bailiff. 14 & 15 Vic. c. 57. s. 43.

40. The Order from the Clerk of the Peace directing that Goods distrained should be replevined, and which, under the Provisions of the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, Section Forty-three, was directed to the Sheriff, shall, after the Time appointed for the *Commencement of this Act*, be directed to the High Bailiff of the County; and the said High Bailiff and his Replevinger are hereby required, upon good Security being given to him by the Bond of the Person obtaining such Order of the Clerk of the Peace, and Two or more responsible Persons, not exceeding *Four* in Number, as Sureties in *double* the Amount of the Value of the Property distrained, the same to be ascertained by an Appraiser to be appointed by the High Bailiff, to execute such Order, and to do and perform all and every Act and Acts required to be done by the Sheriff under the said Section of the said Act, and within the Time therein specified; and the Bond to be given to the High Bailiff shall be in the Form (3) of the Schedule (C.) to the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, substituting the High Bailiff for the Sheriff. 14 & 15 Vict. c. 57. s. 43.

When Bond to be delivered up.

41. The Bond which shall be given to the High Bailiff as Security in Replevin shall, in the Events set forth in the said last-mentioned Act, Section Forty-seven, be delivered up to the Party complaining of the Distress, as the Bond given to the Sheriff is in the said Section of the said Act provided to be given up.

Assigning Bond.

42. It shall be lawful for the Chairman to order that the Bond directed to be given to the High Bailiff as Security in Replevin under this Act shall, in the Events set forth in the said last-mentioned Act (Section Forty-eight), be assigned to the Defendant in the Manner prescribed by the said Section, and the Form of Assignment shall be the same as that prescribed in the said Section for the Assignment of the Bond given to the Sheriff, substituting the Words "High Bailiff" for "Sheriff," and the same Proceedings and Rights of the Parties shall and may be taken and had in respect of such Bond given to the High Bailiff, and assigned by him, as are stated and set forth in the said Section, in respect to the Bond heretofore given to the Sheriff, and therein mentioned.

Saving Rights of Assignees of

43. Provided always, That the Assignee of any Bond given to the Sheriff before the *Commencement of this Act* as a Security in

Sheriff before Commencement of this Act. 14 & 15 Vict. c. 57.

Replevin, and which may have been assigned by him under the Provisions of the said last-mentioned Act, or which may be assigned to him after the *Commencement of this Act*, shall continue and be in full Force and Effect; and it shall be lawful for the Sheriff to assign any such Bond, notwithstanding the passing of this Act; and all the Provisions of the said last-mentioned Act shall continue and be in force for the Purpose of hearing and determining any Replevin Suit which may have been instituted or pending; and all the Provisions of the said Act shall relate to all Replevins issued forth prior to the passing of this Act as if this Act had not been passed: Provided also, that the Execution of any Decree or Order made or pronounced by the Chairman or Judge of the Civil Bill Court after the *Commencement of this Act* in any Replevin Suit instituted before this Act shall come into operation, shall be by the Bailiff of the Court, and the Form of Award of Execution shall be to the High Bailiffs of the respective Counties instead of to the Sheriffs.

Time for Service of Civil Bill Replevin.

44. A Copy or Copies of the Replevin Process lodged with the Clerk of the Peace shall be served on every Person named as a Defendant therein, at least *Six* clear Days before the First Day of the Sessions to which the same is returnable; and the *Ten* clear Days between the Day of lodging such Civil Bill with the Clerk of the Peace and the First Day of holding the said Sessions for the Division or District in which such Distress was made shall be computed from the *First* Day of such Sessions, and if more than One Sessions in such Division, then such *Ten* clear Days shall count from the *First* Day of the last Sessions which may be held in such Division or District, so as that the said Civil Bill may be heard at a Sessions for the Division next following the lodging of such Civil Bill, if possible.

Expenses to be allowed to Witnesses as Chairman shall direct.

45. It shall be lawful for the Chairman of Quarter Sessions or Judge of Assize, upon Appeal, to allow reasonable Expenses to any Person examined before him in any Proceeding by Civil Bill, and to tax and award against the unsuccessful Party in any such Proceeding such Sum or Sums of Money as are for the Expenses of such Witness, provided the Sum to be allowed any One Witness shall not exceed the Sum of *Five Pounds*.

No Civil Bill to be brought upon any Judgment or Decree of any Court.

46. Whenever any Person shall have obtained a Judgment in any of the Superior Courts at Law, or a Decree or Order of any Petty Sessions Court or other Court in Ireland, it shall not be lawful for such Persons to sue by Civil Bill upon such Judgment, Decree, or Order, nor to proceed by Civil Bill to recover any Sum of Money which was the Subject Matter of the Suit upon which such Judgment, Decree, or Order was obtained: Provided always, that nothing herein contained

contained shall extend to or prevent a Party from suing by Civil Bill upon any Civil Bill Decree, when the same cannot be renewed by Affidavit or upon Notice.

Interpleader. (14 & 15 Vict. c. 57. s. 150.

47. Whereas, in the Execution of the Decrees or Orders of the Civil Bill Courts, Goods may be taken, which Goods may be claimed to be the Property of Persons not being the Parties against whom such Decree or Order was issued, and it is reasonable to afford a cheap and expeditious Mode of adjudicating on such Claim: Be it enacted, That when any Goods taken under any Decree, Order, or Process of any Civil Bill Court in Ireland shall be claimed by any Person, it shall be lawful for such Person so claiming such Goods so taken as aforesaid, or his Agent, to make an Affidavit before any Justice of the Peace for the County wherein such Goods have been seized under such Decree, Order, or Process (and which Affidavit such Justice is hereby empowered to take and receive), to the Purport that the said Goods are the bonâ fide Property of the Person so claiming the same; and it shall be lawful for the High Bailiff of the County where such Goods shall be so seized, upon the Lodgment with him, the said High Bailiff, of such Affidavit, and of the Amount of the Sum mentioned in such Decree, Order, or Process, where the Value of the Goods seized shall exceed or be equal to the Amount of the Sum mentioned in such Decree, Order, or Process, and in the event of the Value of the Goods so claimed being less than the Sum mentioned in such Decree, Order, or Process, then such Sum as shall be equal to the Value of such Goods (such Value to be ascertained by any Appraiser appointed by the said High Bailiff), to deliver up such Goods to the Person claiming the same. And the said High Bailiff shall, within *Six* Days from the Day of Lodgment of such Affidavit, transmit the same to the Office of the Clerk of the Peace, to be there filed. And the said High Bailiff shall hold the said Money so deposited with him, to abide the Order and the Decree of the Chairman in respect of the same, as herein-after is mentioned. And the said High Bailiff shall notify to the Plaintiff in the said Decree, Order, or Process that such Claim has been so made, and that such Deposit has been made.

Claimant to bring a Process, &c.

48. When any Third Party claims any Goods taken under any Decree, Order, or Process, and deposits with the High Bailiff the Affidavit and Money as in the said last-mentioned Section is mentioned and directed, such Third Party so claiming the said Goods shall cause a Civil Bill Interpleader Process to be served on the Plaintiff or Party in such Decree, Order, or Process, at whose Suit such Goods shall have been taken, stating that he claims the same as his Property; and the said Civil Bill shall be returnable to the Quarter Sessions

for the Division of the County in which such Seizure was made next after such Deposit with the said High Bailiff; provided that the same can be served in due Time for any Sessions of the next Quarter Sessions for the same Division as aforesaid, and if not then to the first Sessions for the Division in which the Seizure was made next following, and not after; and the said Civil Bill, if the Defendants therein named, or One of them, reside within the County, shall be served as other ordinary Civil Bills are served, and at the respective Times provided for the Service of such ordinary Civil Bills; and if the Defendants therein named shall reside out of the County or Division in which the said Goods were seized, the Service of such Civil Bill may be effected by any Person; and the Mode of Service of such Civil Bill shall be that which is prescribed for the Service of other ordinary Civil Bills, and the said Civil Bill shall be heard and determined as ordinary Civil Bills are heard and determined: Provided always, that if it should appear that the Defendants in such Civil Bill reside out of Ireland, and have not a Residence within the Meaning of the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, within the County or Division where such Goods were seized, then Service of such Civil Bill upon the High Bailiff at his Residence or Office, and transmitting through the Post Office a Copy of the said Civil Bill, directed to the Defendants in the same, to their Place of Abode, as is set out in the Decree, Order, or Process under which the said Goods have been so taken, or to their actual Residence, shall be deemed good Service of the same: Provided also, that this Section and the said last-mentioned Section, and Section One hundred and fifty of the said last-mentioned Act, shall be read together, and the several Provisoes, Conditions, and Matters contained in the said Section One hundred and fifty of the said last-mentioned Act, shall relate to and govern the Proceedings by Interpleader in the Civil Bill Court, save where they are inconsistent with the Provisions of this Section and the next preceding Section in this Act contained.

Growing Crops.

49. It shall not be lawful to seize or take, in Execution under any Civil Bill Decree, Order, or other Proceeding of the Civil Bill Court, or under any Decree, Order, or Warrant of a Justice of the Peace, any growing Crops, Trees, Shrubs, Plants, or Vegetable Matters which are not severed from the Land and Soil.

Process out of County may be served by any Person, and when

50. Every Process which shall be required to be served out of the County, Riding, or Division may be served by the Process Officer of any Civil Bill Court, or by any other Person whomsoever; and when the Service of Process out of the County or Riding shall be made by the Process Officer of the Civil Bill Court of the County where such Service

Service was made, such Service may be proved by Affidavit purporting to have been made before a Master Extraordinary in Chancery, or any other Person now authorized by Law to take Affidavits; and the Fee for taking such Affidavit shall not be more than *One Shilling*, and shall be Part of the Costs incident to the Civil Bill; and such Affidavit shall be filed with the Clerk of the Peace of the County where the same shall be used as Evidence of Service, and the same shall be filed before the hearing of the Cause in which the same is intended to be used; and such Affidavit shall specify fully the Residence of the Parties and of the Person making the same, and how such Service was effected.

Service served by a Process Officer of the County may be proved by Affidavit.

51. Whereas Provision is not made in the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, (Section Fifty,) for the Time within which Executors and Administrators should lodge the Accounts and Schedules in the said Section of the said Act mentioned: Be it enacted, That such Executor or Administrator shall lodge with the Clerk of the Peace such Schedule or Schedules or Accounts within *One Calendar Month* after he shall have been called upon to do so by the Person entitled to demand that the same should be lodged as in that Section named, or within such other Time as the Court shall order and direct; and in default of so doing such Executor or Administrator shall forfeit the Sum of *Twenty Pounds*, to be recovered in the Manner in the said Section of the said Act mentioned.

Amending 50th Sect. of 14 & 15 Vict. c. 57. by directing the Time within which Accounts should be lodged.

52. The Judge of the Civil Bill Court, in any Case where he shall see fit, upon Application by either Party in a Suit upon an Affidavit, may issue an Order under his Hand and Seal for bringing up before such Court any Prisoner or Person confined in any Gaol, Prison, or Place within his County, under Sentence or under Commitment for Trial or otherwise, except under Process in any Civil Action, Suit, or Proceeding, to be examined as a Witness in any Cause or Matter depending or to be inquired of or determined in or before such Court; and the Person required by any such Order to be brought before such Court shall be so brought under the same Care and Custody and be dealt with in like Manner in all respects as a Prisoner required by any Writ of Habeas Corpus awarded by any of Her Majesty's Superior Courts of Law at Dublin, to be brought before such Court to be examined as a Witness in any Cause or Matter depending before such Court is now by Law required to be dealt with: Provided also, that the Person having the Custody of such Prisoner or Person shall not be bound to obey such Order, unless a Tender be made to him of a reasonable Sum for the Conveyance and Maintenance of a proper Officer or Officers and of the

Chairman may issue Warrant for bringing up a Prisoner to give Evidence.

Prisoner or Person in going to, remaining at, and returning from such Court: Provided also, that no Prisoner confined in a County or City Gaol shall be brought up under any such Order to any other Place than the Court House of such County Town, or City or Town, where such Gaol is situate.

Before whom Affidavits may be sworn.

53. All Affidavits to be used in any Civil Bill Court in Ireland shall and may be sworn before any Chairman of Quarter Sessions in Ireland, or any Master Extraordinary in Chancery in England or Ireland, or Commissioner for taking Affidavits in any of the Superior Courts at Westminster or Dublin, or before a Magistrate of the County, City, Town, or Place where any such Affidavit may be sworn; and all such Affidavits must be filed as of Record in the Court where the same are intended to be used before the same can be read.

Power to Chairman to adjourn hearing of Case to another Division.

54. If any Judge of a Civil Bill Court shall be satisfied that any Suit then pending in his Court can be more conveniently tried or heard in any other Division of his County than that to which it has been returned for hearing, or if during the hearing of any Suit it shall seem and appear to such Judge that it would meet the Ends of Justice to adjourn the further hearing of the said Suit to some Town in another Division of the County, it shall be lawful for him to direct that such Case shall be heard in such other Division, or he may adjourn the hearing of the same to such other Division; and any Decree or Order made in such other Division shall have full Force and Effect in Law as if the same was pronounced in the Division where the Case was originally returned for hearing.

Provision for Court Houses.

55. The several Court Houses heretofore used for the Purpose of holding Civil Bill Courts in Ireland, and the Courts of General Quarter Sessions, and all other Court Houses which may at any Time hereafter be used as the Court Houses for holding the Courts of Quarter Sessions and Sessions of the Peace in Ireland, shall be used as Court Houses for holding the Civil Bill Courts and Courts of Quarter Sessions in Ireland; and the several Sheriffs and Under Sheriffs in Ireland, in their respective Counties, are required to have the same in a fit and proper State for holding Civil Bill Courts at the Times specified for the holding of the same; and if it appear to the Chairman or Judge of the Civil Bill Court that the said Court House is not in a fit and proper State, through the Default of the Sheriff, it shall be lawful for the Chairman or Judge of the Civil Bill Court to fine the Sheriff in any Sum not exceeding the Sum of *Ten Pounds* for such Neglect or Default; and the said Court Houses shall and may be used for all Purposes relating to Civil Bill Business, and to the posting

posting of all Schedules, Notices, and other Documents, Matters, and Things therein and thereon, as they have hitherto been used: Provided always, that the Sheriff or Sub-Sheriff shall not be held accountable for any Matter in relation to such Court House through the Neglect of the Grand Jury.

Gaols as heretofore to be used.

56. The Common Gaols or Prisons heretofore used for the Purposes of the Civil Bill Courts in the respective Counties and Ridings in Ireland, and all other Gaols and Prisons which may hereafter be used for the Purposes of the Superior Courts of Law in Ireland, shall be used for all Purposes of the Civil Bill Courts in Ireland in the respective Counties where such Civil Bill Courts are held, and the respective Governors, Gaolers, Keepers, and Sheriffs of such Gaols and Prisons are required to receive and take all Persons committed or taken in Execution under any Decree or Order, or under any Committal for Contempt, from the Civil Bill Court of the County or Riding where such Gaol or Prison may be situate, and to detain such Persons till discharged by due Course of Law; and all Sheriffs, Governors, Gaolers, and Keepers of Gaols shall be liable and answerable for all Escapes of Persons committed or taken in Execution under any Decree or Order, or under any Committal for Contempt of any Civil Bill Court, and who shall have been lodged in Gaol, as such Sheriffs and Gaolers are now answerable for the Escape of Parties in their Custody under Writs of Execution or other Writs or Committals for Contempt issuing out of the Superior Courts of Law in Ireland.

Amendment. 16&17 Vict. c. 113. s. 231.

57. It shall be lawful for the Chairman of Quarter Sessions, or Judge of the Civil Bill Court, at all Times to amend all Defects and Errors in any Civil Bill Process or Notice or other Proceedings of the Civil Bill Court, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend or not; and all such Amendments may be made in such Manner as shall be thereby directed, and with or without Costs, and upon such Terms as the Chairman or Judge may seem fit; and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made; and when such Amendment shall be allowed the Order for allowing the same to be made, specifying the Amendment, shall be entered as of Record upon the Court Book of the Clerk of the Peace.

General Rules may be made from Time to Time.

58. It shall and may be lawful for the Chairmen of Quarter Sessions, or for any *Five* of them, to be selected at a Meeting of the said

said Chairmen to be convened for that Purpose, to make and issue such General Orders, Rules, and Regulations as they shall think fit, from Time to Time, and as often as may be deemed necessary, for regulating the Forms, Proceedings, and general Practice of the Civil Bill Courts in Ireland, and from Time to Time to alter, vary, and annul any previous Order relating to the Practice of the said Courts, and to make any new or other Rule or Rules, Orders, and Regulations in lieu thereof; provided that any such Rules, Orders, and Regulations shall not be inconsistent with this Act or any Act of Parliament relating to Civil Bills; such Rules, Orders, and Regulations to be submitted to the Lord Chief Justice of Ireland, for his Approval; and Copies of all such Rules, Orders, and Regulations, when so approved, shall be transmitted to the Clerks of the Peace and the High Bailiffs of the respective Counties in Ireland, to be by them kept and preserved in their Offices, and there to remain open at all Times to the public Inspection; and such Rules, Orders, and Regulations, when approved of by the said Lord Chief Justice of Ireland, shall be as binding as if they were contained in this Act.

Stamps on Civil Bill Forms of Process, and Copies, &c.

59. *Whereas under the Provisions of this Act divers Sums of Money will be become annually charged upon and payable out of Monies to be provided by Parliament for the Salaries to the High Bailiffs of the Civil Bill Courts: And whereas also some Fees heretofore payable under the Provisions of the Civil Bill Acts in force in Ireland are by this Act abolished: And whereas the Jurisdiction of the Civil Bill Court has been, since the passing of the said Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, extended by "The Landlord and Tenant Law Amendment Act, Ireland, 1860," and new and additional Jurisdiction has been given by the last-mentioned Act to the said Court, but no Provision has been made therein for Stamp Duties upon the Forms and Proceedings of such new, extended, and additional Jurisdiction; and it is reasonable that the Stamp Duties specified in Schedule (E.) to this Act annexed should be granted and made payable upon certain Civil Bill Forms ond Proceedings herein specified, and in lieu of such Fees so abolished, and that the said Stamp Duties upon the said Forms and Proceedings should be, after a certain Sum (the Subject Matter of the Suit), a progressive Stamp Duty: Be it therefore enacted, That the Forms in this Act mentioned, and hereby provided to be used in Civil Bill Proceedings, shall be severally subject to the Stamp Duties in the said Schedule mentioned in lieu and instead of the Stamp Duties heretofore imposed upon Civil Bill Proceedings, and the High Bailiff shall not receive for Execution or execute any Civil Bill Decree without having the proper Stamp impressed thereon.*

60. *The*

60. *The Commissioners of Inland Revenue shall from Time to Time and as Occasion shall require give the necessary Directions for carrying the same into effect, and shall provide everything that is requisite for that Purpose, and shall do or cause to be done everything that is necessary for the Receipt and Collection of the Money to be paid for such Stamps, and the said Commissioners shall cause separate and distinct Accounts of all Sums of Money received or collected by them in respect of the Sale of such Stamps, and of all Costs, Charges, and Expenses incurred by them or by their Direction in carrying the same into effect.* Commissioners of Inland Revenue to give the necessary Directions as to the Stamps, and to keep separate Accounts.

61. *The Commissioners of Inland Revenue may, if they think it necessary to do so, authorize proper Persons for the Sale and Distribution of all or any of the Stamps to be used under this Act, and may allow to such Persons the usual or customary Discount or Poundage thereon.* Provision for Sale of Stamps.

62. *The Commissioners of Inland Revenue shall from Time to Time make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which through Mistake or Inadvertence may have been improperly or unnecessarily used, and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on Stamps of the like Kind.* Commissioners of Inland Revenue to make Regulations as to spoiled Stamps.

63. *The Provisions contained in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall (so far as the same are applicable and consistent with the Provisions of this Act), in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under and by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be affixed, and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.* Several Stamp Acts to be in force.

64. *No Document which by any Order as aforesaid ought to have had a Stamp impressed thereon or affixed thereto shall be received or filed* No Document to be received or

used unless stamped.

filed or be used in relation to any Proceeding in any of the said Civil Bill Courts, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, the Judge of the said Court may, if he shall think fit, order that a Stamp not exceeding in Value Four Times the Amount of such original Stamp shall be impressed thereon or affixed thereto, and thereupon, when the proper Stamp shall in compliance with such Order have been impressed on such Document or affixed thereto, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed.

Officer guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed.

65. *If any Officer or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, any such Officer or Person so offending may be dismissed from his Office or Employment by the High Bailiff of any of the said Civil Bill Courts.*

Treasury to to regulate Fees to be taken in Civil Bill Courts. (19 & 20 Vict. c. 108. s. 79.

66. *The Commissioners of Her Majesty's Treasury, from Time to Time, with the Consent of the Lord Chancellor of Ireland, may lessen or increase the Fees which are specified in Schedule (E.) to this Act, or which are now payable on Proceedings in the Civil Bill Courts in Ireland, taken under any Act not herein-before recited, and may substitute other Fees in lieu thereof, and may order new Fees to be paid on any Proceedings which are now or shall hereafter be authorized to be taken in such Courts, whether any Fee is now payable thereon or not: Provided always, that every such Alteration in the Scale of Fees shall be notified to both Houses of Parliament within Ten Days from the Commencement of the Session next after such Alteration.*

Decrees, &c. to be Executions within the Statute of Anne.

67. Every Civil Bill Decree, Dismiss, or Order shall be deemed to be an Execution within the Meaning of an Act passed in the Parliament held in Ireland in the Ninth Year of the Reign of Queen Anne, Chapter Eight, intituled "An Act for the better securing of Rents, and to prevent Frauds committed by Tenants;" and the High Bailiff shall have all the Powers and Privileges and be subject to the same Duties

Duties and Responsibilities as the Sheriff now has and is subject to by Law in relation to the same.

The proper Officers of the Recorders Courts to sign Decrees and Precepts as heretofore.

68. The proper Officers of the Courts of the Recorders of Galway and Londonderry shall sign the Precept annexed to Civil Bill Decrees directed to the High Bailiffs of the respective Counties of Galway and Londonderry for Execution, as they have been heretofore used and accustomed to sign Decrees of the said respective Courts.

Repealing Acts of Sheriff in certain Cases. 23 & 24 Vict. c. 154, s. 65.

69. And whereas by the Provisions of the Landlord and Tenant Law Amendment Act Ireland, 1860, (Section Sixty-five,) a Defendant in a Decree for Possession in Ejectment for Nonpayment of Rent is entitled to have the Execution of the said Decree stayed upon Payment to the Sheriff of the Sum marked for Rent and Costs: Be it enacted, That he shall be so entitled to have such Decree stayed upon Payment of such Sum to the High Bailiff for Rent and Costs; and the Duties directed to be performed by the Sheriff in the said Act (Section Ninety-four) shall be done by the High Bailiff, and not by the Sheriff, his Officer or Bailiff, nor shall it be necessary that the Sheriff, his Officer or Bailiff, shall attest the Attornments or Acknowledgments at Foot of Forms No. 6 and No. 7, as in the Schedule (A.) to said Act are annexed; and the High Bailiffs of the respective Counties shall execute the Decrees to Possession in lieu and instead of the Sheriffs, as in the Ninety-eighth and Ninety-ninth Sections of the said Act is mentioned. And whenever, by any Act of Parliament, the Sheriff of any County in Ireland, by himself or by his Special Bailiff, is ordered, directed, or empowered to execute any Civil Bill Decree or Order, or to do any other Matter or Thing in relation to any Civil Bill Proceeding, such Act, so far as relates to the Sheriff or his Special Bailiff executing or doing any Act so relating to any Civil Bill Proceeding, is hereby repealed; and such Act, Matter, or Thing so directed to be done by such Sheriff or his Special Bailiff shall be done by the High Bailiff of the County, or Assistant Bailiffs when empowered to act, and the High Bailiff of the County, and his Assistant Bailiffs or other duly appointed Bailiffs, are hereby authorized and empowered to act, though the said Proceeding, Order, or Decree shall, on the Face of it, be directed to the Sheriff; provided that nothing herein contained shall affect anything heretofore done, or which before this Act shall come into operation may be done by the Sheriff or his Special Bailiff.

SCHEDULE referred to in the foregoing Act.

SCHEDULE (A).

ACTS TO BE REPEALED.

Date of Act.	Title.	Extent of Repeal.
14 & 15 Vict. Cap. 57.	An Act to consolidate and amend the Laws relating to Civil Bills and the Courts of Quarter Sessions in Ireland, and to transfer to the Assistant Barristers certain Jurisdiction as to Insolvent Debtors.	So much of Section 23 as relates to any Power, Privilege, or Authority of any High Sheriff, Sub-Sheriff, or Under-Sheriff, to any Matter or Thing in relation to Civil Bill Proceedings. So much of Section 42 as relates to authorizing the Sheriff or his Replevingers to grant Replevins or make Deliveries of Distresses for Rent for the Purpose of Civil Bill Replevin Proceedings. So much of Sections 43, 44, and 46 as relates to Sheriffs, or anything to be done by them. So much of Section 47 as relates to Sheriffs, or anything to be done by them, except where the same is preserved by this Act. So much of Section 59 which directs that the Decree or Dismiss therein mentioned shall be executed by the Sheriff or Sheriff's Bailiff. So much of Sections 62 and 63 as set out the Amount of Stamp Duties payable on Civil Bill Forms and Proceedings. So much of Section 97 as relates to the Sheriff, his Warrant, Payment to him of Rent, Costs, and Fees, or his making any Return on the Civil Bill Decree. So much of Form 11, Schedule (C.), as requires the Witness thereto to be the Sheriff or Sheriff's Officer; and to that Extent so much of Section 80. So much of Sections 84 and 85 which directs or empowers Sheriffs to execute the Decrees therein mentioned. Section 95. So much Section 100 as directs the Sheriff to summon a Jury to try Civil Bills, or that Notice should be served on him for that Purpose by any one. Section 104. Section 107. So much of the Forms 26, 27, Schedule (C.), which awards Execution to the Sheriff, and the Sheriff's Warrant annexed thereto; and so much of the 110th Section as directs that Decrees and Dismisses should be in that Form, with such Award of Execution and Warrant. So much of Sections 128, 129, and 132, which relates to a Party's Right to Appeal by depositing Money or an Affidavit with the Sheriff, or to any Act by the Sheriff in relation to Appeals.

Relates to Sheriffs executing Decrees.

Date of Act.	Title.	Extent of Repeal.	
		Section 131.	Sheriffs executing.
		Section 145.	
		Section 146.	Bailiffs selling.
		Section 147.	Cattle and Driver.
		So much of Section 150 which empowers the Sheriff to redeliver Goods taken in Execution to a Third Party, on such Third Party making a Claim and performing the Requisites set forth in that Section, or authorizes the Sheriff to do any Act in respect to Goods so seized.	
		So much of Section 151 as relates to fining a Sheriff.	
		So much of Section 152 as relates to Fees payable to Sheriffs, and Penalties on Sheriffs.	
		So much of Schedule (D.) as relates to Fees payable to Sheriffs.	
		So much of Forms Nos. 2, 3, 4, 5, 7, 8, 11, 18, 19, 20, 21, 22, 23, 26, 27, 30, 33, as relates to the Sheriff, or requires him to do any Matter or Thing.	
23 & 24 Vict. Cap. 154.	An Act to consolidate and amend the Law of Landlord and Tenant in Ireland.	Sections 92 and 93.	
		So much of Section 94 as warrants or authorizes any Act to be done by the Sheriff, his Officer or Bailiff.	
		So much of the 96th Section as directs Sheriff or his Special Bailiff to execute a fresh Execution on Justice's Certificate.	
		And so much of the 98th and 99th Sections as relates to Sheriffs or their Officers executing Decrees.	
		So much of Schedule (A.) as relates to Sheriffs.	

SCHEDULE (B.)

Part 1. First Class, £350 per Annum. One High Bailiff for each of these Counties.	Armagh. Kilkenny. Down. Monaghan. Limerick.	£1,750
Part 2. Second Class, £300 per Annum. One High Bailiff for each of these Counties.	Cavan. Dublin. West Cork. Fermanagh. Leitrim. Queen's County. Roscommon. Sligo. Waterford. Wexford.	£3,000
	Carried over - -	£4,750

	Brought over - -	£4,750
Part 3. Third Class, £250 per Annum. One High Bailiff for each of these Counties.	Carlow. Kildare. King's County. Longford. Louth. Meath. West meath. Wicklow.	
Part 4. For each of these Counties Two High Bailiffs at *Third-class* Salaries.	Antrim (2). Clare (2). Donegal (2). Galway (2). Kerry (2). East Cork (2). Tipperary (2). Londonderry (2). Mayo (2). Tyrone (2).	£7,000
		£11,750

SCHEDULE (C.)

Fees payable to the High Bailiff.

	£	s.	d.
For executing any Decree, Dismiss, or Order for any Sum not exceeding 1*l.* - - - - - - - -	0	1	0
And *6d.* in the Pound on the Amount of the said Decree, Dismiss, or Order after the first 1*l.*			
To the High Bailiff, or his Assistant Bailiff, in all Cases for executing any Decree, Dismiss, or Order by Arrest of the Person, upon lodging such Person in Gaol - - - -	0	5	0
To the High Bailiff or to his Replevinger, in drawing Affidavit of Value of Goods distrained in Replevin Cases, and in full of all Charges in relation to such Cases - - - -	0	3	0
To the Keepers of Seizure under any Decree, Dismiss, or Order, as and for the Expenses of Bailiffs in charge of the Property taken, at the Rate of *1s. 6d.* a Day for each Bailiff, the Number of Bailiffs not to exceed *Three*, and the Length of Time to be charged for not to exceed *Five* Days; and when the Number of Bailiffs shall exceed One, then the High Bailiff shall obtain the Sanction of the Chairman for charging for more than One.			
To the High Bailiff, in full, for Proceedings by Interpleader -	0	2	6

See 147 sec. 14 & 15 Vict. c. 57.

SCHE-

SCHEDULE (D.) No. 1.

Form of Notice of Application that a Writ of Restitution will be applied for.

23 & 24 Vict. c. 154. ss. 70, 71.

County of
Division of

A. B., Plaintiff;
C. D., Defendant.

WHEREAS the Plaintiff in this Suit, on or about the Day of obtained a Decree for the Possession of the Lands of situate at for Nonpayment of Rent, and was, under and by virtue of that Decree, put into the Possession of the said Lands on the Day of .

And whereas the Sum of £ the Sum ascertained to be due for Rent of the said Lands, and so endorsed on the said Decree, and the Sum of £ for all Costs of the said Decree, are now and have been, within Six Months from the Execution of the said Decree, duly lodged with the Clerk of the Peace of the said County. Take Notice, that I, being interested in the said Lands, and having in the Lease a Contract of Tenancy thereof and Interest, do hereby give you, as the Landlord of such Lands, Notice that I shall, on the Day of next, being the First Day of the Sessions to be holden at for the Division of within which the said Lands are situate, apply to the Chairman of Quarter Sessions for the said County to make an Order that a Writ or Order for the Restitution of the Possession of the said Lands may issue to restore to me the Possession of the said Lands.

Dated this day of 18 .

SCHEDULE (D.) No. 2.

Form for a Decree upon an Appeal under the 22d Victoria, Chap. 14.

County of
Division of

A.B. of, *&c.*, Plaintiff;
C.D. of, *&c.*, Defendant.

WHEREAS the Plaintiff duly caused the Defendant to be summoned before the Justices of the Petty Seesions Court of to answer the Complaint of the Plaintiff, and to recover from him, the Defendant, the Sum of £ ; and upon the Hearing of the said Complaint the Justices of the said Court of Petty Sessions adjudged, decreed, and ordered that the Defendant should pay to the Plaintiff the Sum of £ Debt, and the Sum of £ for Costs.

And whereas the Defendant, being dissatisfied with such Adjudication, hath duly appealed from the Decision of the said Justices; and it appearing to the Court that the said Defendant[s] is [*or* are] justly indebted to the Plaintiff in the Sum of £ [*here state Cause of Action, as in Magistrates Order*]: It is therefore ordered and decreed by the Court, that the Adjudication

Decree, and Order of the said Justices be affirmed, and that the Plaintiff[s] do recover from the said Defendant the said Sum of £ together with £ Costs: And the several High Bailiffs, *&c.*

N. P., Chairman of Quarter Sessions.
B. S., Clerk of the Peace.
T. R., Attorney for

[*Here follows Precept.*]

Form of a Dismiss upon Appeal under the 22d Victoria, Chap. 14.

County of
Division of

A.B. of, *&c.*, Plaintiff;
C.D. of, *&c.*, Defendant.

WHEREAS the Plaintiff duly caused the Defendant to be summoned before the Justices of the Petty Sessions Court of to answer the Complaint of the Plaintiff, and to recover from him, the Defendant, the Sum of £ ; and upon the Hearing of the said Complaint the said Justices of the said Court of Petty Sessions adjudged, decreed, and ordered that the said Defendant should pay to the Plaintiff the Sum of £ Debt, and the Sum of £ for Costs.

And whereas the said Defendant, being dissatisfied with such Adjudication, hath duly appealed from the Decision of the said Justices; and it appearing to the Court that the said Plaintiff hath failed to prove his said Debt, or any Part thereof: It is thereby decreed by thesaid Court that the Adjudication, Decree, and Order of the said Justices be reversed, and that the Plaintiff's Suit be and the same is hereby dismissed on the Merits [*or* without Prejudice, *as the Case may be*], and that the Defendant do recover against the Plaintiff the Sum of £ the Costs of this Dismiss: And the several High Bailiffs, *&c.*

N. P., Chairman of Quarter Sessions.
B. S., Clerk of the Peace.
T. R., Attorney for

[*Here follows Precept*].

SCHEDULE (E.)

Ejectments for Nonpayment of Rent [or on Notice to quit, or where the Interest has determined.

	s.	*d.*
Every original Civil Bill Ejectment Process, where the annual Rent shall not exceed 50l.	*2*	*6*
Every Copy thereof served	*0*	*6*
Every original Civil Bill Ejectment Process, where the annual Rent shall exceed 50l. and not exceed 60l.	*4*	*0*
Every Copy thereof served	*0*	*6*

Every

	s.	d	
Every Civil Bill Ejectment Process, where the annual Rent shall exceed 60l. and not exceed 70l.	5	0	
Every Copy thereof served	0	6	
Every Civil Bill Ejectment Process, where the annual Rent shall exceed 70l. and not exceed 80l.	6	0	
Every Copy thereof served	1	0	
Every Civil Bill Ejectment Process, where the annual Rent shall exceed 80l.	7	6	
Every Copy thereof served	1	0	

Ejectment for deserted Tenements.

Every original Civil Bill Ejectment Process, where the Rent reserved does not exceed 50l.	2	6	
Every Copy thereof served or posted	0	6	
Every original Civil Bill Ejectment Process, where the Rent reserved exceeds 50l.	7	6	
Every Copy thereof served or posted	0	6	

Ejectment against permissive Occupants.

Every original Civil Bill Process	2	6	
Every Copy thereof served or posted	0	6	

Possessory Ejectments.

Every original Civil Bill Ejectment Process	2	6	
Every Copy thereof served or posted	0	6	

Ejectments on Acknowledgments, or on any other Ejectment not hereinbefore specified.

Every original Civil Bill Ejectment Process	2	6	
Every Copy thereof served or posted	0	6	

Applications for Writs of Restitution.

Every original Notice of Application to the Civil Bill Court applying for the Restoration of Possession of Lands evicted for Nonpayment of Rent	2	6	
Every Copy thereof served	0	6	
Every Writ of Restitution	2	6	23 & 24 Vict. c. 154. s. 61.
Every Order of Court allowing a Plaintiff to elect to take Money lodged in Court in lieu of Possession	2	6	23 & 24 Vict. c. 154. s. 63.
On Certificate of Lodgment of Rent in Court	1	0	
On Duplicate thereof	0	6	
Every original Civil Bill Process for Rent, or for Use and Occupation, where the Sum claimed shall not exceed 20l.	0	6	
Every Copy thereof served	0	6	
Every original Civil Bill Process for Rent, or for Use and Occupation, where the Sum claimed shall exceed 20l. and not exceed 40l.	2	0	
Every Copy thereof served	0	6	

	s.	d.
Every original Civil Bill Process for Rent, or for Use and Occupation, where the Sum claimed shall exceed 40l. and not exceed 60l.	3	0
Every Copy thereof served	0	6
Every original Civil Bill Process for Rent, or for Use and Occupation, where the Sum claimed shall exceed 60l. and not exceed 80l.	5	0
Every Copy thereof served	1	0
Every original Civil Bill Process for Rent, or for Use and Occupation, where the Sum claimed shall exceed 80l.	7	6
Every Copy thereof served	1	0

Replevin.

Every Civil Bill Process in Replevin	2	6
Every Copy thereof served	0	6

Legacy.

Every original Civil Bill Process for the Recovery of any Legacy, or distributive Share of Assets, or for Recovery of Annuities	2	6
Every Copy thereof served	0	6

Ordinary Civil Bills.

On every original Civil Bill Process, where the Demand does not exceed 20l.	0	6
On every Copy thereof served	0	6
On every other original Civil Bill Process, where the Demand exceeds 20l. and does not exceed 40l.	2	0
Every Copy thereof served	0	6
On every original Civil Bill Process, where the Sum demanded exceeds the Sum of 40l. and does not exceed the Sum of 60l.	3	0
On every Copy thereof served	1	0
On every original Civil Bill Process, where the Sum exceeds 60l. and does not exceed 80l.	5	0
Every Copy thereof served	1	0
On every original Civil Bill Process, where the Sum exceeds 80l.	7	6
Every Copy thereof served	1	0
Every Notice of Renewal, the Stamp which the Amount claimed would require if it was an original Process.		
Every Recognizance of Appeal	1	0
Upon every Decree or Order in Replevin	2	6
Upon every Decree or Order in a Legacy Case	1	0
Upon every ordinary Civil Bill Decree, Dismiss, or Order, where the Sum decreed shall not exceed 40l.	1	0
Where the Sum shall exceed 40l. and not exceed 60l.	2	0
Where the Sum shall exceed 60l. and not exceed 80l.	3	0
Where the Sum shall exceed 80l.	5	0
On every Ejectment Decree	£1	1 0

Penalties.

	s.	d.	
Every original Civil Bill for Penalty for burning the Soil or Surface of Land, or for cutting Trees	3	0	23 & 24 Vict. c. 154. ss. 30. 31.
Every Copy thereof served	0	6	

Compensation.

Unlimited Jurisdiction given to Court.

Every original Civil Bill Process by Tenant against Owner of Land for Compensation for working Mines, &c., under the 23 & 24 Vict. Chap. 154. Secs. 32 and 33	3	0	
Every Copy thereof served	0	6	

Waste.

Every original Notice of Application for annulling Precept to stay Waste	3	0	
Every Copy thereof served	0	6	
Every Order or Award giving Compensation, or annulling or varying Precept to stay Waste	1	0	

Probate and Administration.

On every original Civil Bill Process for Probate or Letters of Administration	2	6	
On every Copy thereof served	1	0	
On every original Civil Bill Process for the Revocation of Letters of Administration	2	6	
On every Copy thereof served	1	0	
On every Civil Bill Decree or Order in a Testamentary Suit	2	6	
On every Copy thereof served	1	0	
On every Certificate from Clerk of the Peace in a Civil Bill Testamentary Suit	1	0	
Upon Order for Costs where Suit stopped for Want of Jurisdiction in Civil Bill Court	1	0	
Upon every Order making Party to Testamentary Civil Bill which may be ordered to be served	2	6	
On every Copy thereof served	1	0	

Forms under Landed Property, Ireland, Improvement Act, 1860.

On every Petition to the Chairman of Quarter Sessions for a Building or Repairing Lease	5	0	
For every Copy thereof served	2	6	
On every Petition for an Improvement Lease	5	0	
For every Copy thereof served	2	6	
On every Form of Notice to be served on the Successor by a limited Owner when he has lodged a Petition	2	6	
On every Statement of Expenditure to be lodged with Clerk of the Peace	2	6	
On original Notice by Tenant to Owner for making absolute Provisional Order	2	6	
On every Copy served	1	0	
On Provisional Order of Court	2	6	
On every Copy thereof served	1	0	
On every absolute Order of Court charging Lands	5	0	

Civil Bill Courts (Ireland).

A

BILL

To amend the Procedure in the Civil Bill Courts in Ireland.

(Prepared and brought in by Sir Robert Peel and Mr. Attorney General.

Ordered, by The House of Commons, *to be Printed,* 19 *May* 1863.

[Bill 138.]

Under 5 oz..

A

B I L L

INTITULED

An Act to establish the Validity of Acts performed in Her Majesty's Possessions abroad by certain Clergymen ordained in Foreign Parts, and to extend the Powers of Colonial Legislatures with respect to such Clergymen.

WHEREAS by the Third Section of an Act passed in the Twenty-sixth Year of His late Majesty King George the Third, Chapter Eighty-four, intituled "An Act to empower "the Archbishop of Canterbury or the Archbishop of York for the "Time being to consecrate to the Office of a Bishop Persons being "Subjects or Citizens of Countries out of His Majesty's Dominions," it was enacted that no Person or Persons admitted to the Order of Deacon or Priest by any Bishop or Bishops so consecrated, or by the Successor or Successors of any Bishop or Bishops so consecrated, should be thereby enabled to exercise his or their respective Office or Offices within His Majesty's Dominions: And whereas by an Act passed in the Third and Fourth Years of Her present Majesty, Chapter Thirty-three, intituled "An Act to make certain Provisions "and Regulations in respect to the Exercise within England and "Ireland of their Office by the Bishops and Clergy of the Protestant "Episcopal

Preamble.

26 G. 3. c. 84.

" Episcopal Church in Scotland; and also to extend such Provisions " and Regulations to the Bishops and Clergy of the Protestant " Episcopal Church in the United States of America; and also to " make further Regulations in respect to Bishops and Clergy other " than those of the United Church of England and Ireland;" and by another Act passed in the Fifth Year of Her present Majesty, Chapter Six, intituled "An Act to amend an Act made in the " Twenty-Sixth Year of the Reign of His Majesty King George the " Third, intituled 'An Act to empower the Archbishop of Canter- " 'bury or the Archbishop of York for the Time being to consecrate " 'to the Office of a Bishop Persons being Subjects or Citizens of " 'Countries out of His Majesty's Dominions,'" Disabilities of a like Kind are attached to other Priests and Deacons episcopally ordained: And whereas by an Act passed by the Legislature of Barbadoes in the Nineteenth and Twentieth Year of Her Majesty Queen Victoria, Chapter Twenty, intituled "An Act to enable the Reverend Joseph " Shepherd Mayers to exercise his Office as a Clergyman within this " Island," it was enacted, that it should be lawful for the said Reverend Joseph Shepherd Mayers to exercise the Office of Priest, and the said Reverend Joseph Shepherd Mayers hath from that Time exercised the said Office in the Island of Barbadoes: And whereas it is apprehended that divers Persons having been ordained by such Bishop or Bishops as aforesaid or their Successors have at Times exercised their respective Offices in British Colonies: And whereas Doubts are entertained respecting the Validity of the aforesaid Act passed by the Legislature of Barbadoes, and of the Marriages solemnized and other Acts performed by the said Reverend Joseph Shepherd Mayers under Authority of the said Act, or by other Persons so ordained as aforesaid, and it is advisable to remove such Doubts, and to define the Power of Colonial Legislatures in this respect: Be it hereby enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Colonial Legislatures may authorize Exercise of Clerical Functions by Persons ordained by Bishops consecrated under 26 G. 3. c. 84. or their Successors.

1. It shall be lawful for the Legislature of any of Her Majesty's Possessions abroad, by any Law or Laws to be by them passed, to authorize any Persons admitted to the Order of Priest or Deacon by any of such Bishops mentioned in the first-recited Act or by any Bishops duly and canonically consecrated, mentioned in secondly and thirdly recited Acts, to exercise their respective Offices in such Possession, anything in the aforesaid Act of Parliament to the contrary notwithstanding, and all Laws heretofore passed by any such Legislature for that Purpose shall be and the same are hereby declared to be valid and effectual to all Intents and Purposes.

2. All

2. All Acts heretofore performed in any British Colony by any Person having been admitted to the Office of Priest or Deacon by any of such Bishops as aforesaid or of their Successors shall be as valid and effectual at Law for all Purposes whatever as if such Person had been so admitted by a Bishop or Bishops of the United Church of Great Britain and Ireland.

Acts heretofore performed by such Persons to be valid.

Clergymen (Colonies).

A

B I L L

INTITULED

An Act to establish the Validity of Acts performed in Her Majesty's Possessions abroad by certain Clergymen ordained in Foreign Parts, and to extend the Powers of Colonial Legislatures with respect to such Clergymen.

(*Brought from the Lords* 20 *July* 1863.)

Ordered, by The House of Commons, *to be Printed*, 20 *July* 1863.

[Bill 251.]

Under 1 *oz.*

A

B I L L

INTITULED

An Act to confirm certain Acts of Colonial Legislatures.

Preamble.

WHEREAS Doubts are entertained respecting the Validity of divers Acts passed by the Legislature of South Australia for the Purpose of altering the Constitution of the Legislative Council and House of Assembly of the said Colony, and respecting the Power of Colonial Legislatures to make Laws for the above Purpose; and it is expedient to remove such Doubts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Construction of Terms "Colonial Legislature" and "Governor."

1. In this Act of Parliament the Term "Colonial Legislature" shall mean the Authority (other than Her Majesty in Council) competent to make Laws for any of Her Majesty's Possessions abroad, except India, the Channel Islands, and the Isle of Man:

The Term "Governor" shall mean the Officer lawfully administering the Government of any Colony.

Confirmation of certain Acts of Colonial Legislatures.

2. All Laws heretofore passed or purporting to have been passed by any Colonial Legislature with the Object of declaring or altering the Constitution of such Legislature, or of any Branch thereof, or

 the

the Mode of appointing or electing the Members of the same, shall have and be deemed to have had, from the Date at which the same shall have received the Assent of Her Majesty or of the Governor of the Colony on behalf of Her Majesty, the same Force and Effect for all Purposes whatever as if the said Legislature had possessed full Powers of enacting Laws for the Objects aforesaid, and as if all Formalities and Conditions by Act of Parliament or otherwise prescribed in respect of the passing of such Laws had been duly observed.

A

BILL

INTITULED

An Act to determine the Time at which Letters Patent shall take effect in the Colonies.

Preamble.

WHEREAS Her Majesty hath from Time to Time caused to be made under the Great Seal of the United Kingdom of Great Britain and Ireland divers Letters Patent intended to take effect within Her Majesty's Colonies and Possessions beyond the Seas: And whereas Doubts are entertained respecting the Period at which such Letters Patent have taken or may hereafter take effect within such Colonies and Possessions, and it is expedient that such Doubts should be removed: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Existing Letters Patent not to take effect in Colonies till published or acted on.

1. No such Letters Patent heretofore made shall (unless otherwise provided therein or by other lawful Authority) be deemed to have taken or shall take effect in any such Colony or Possession as aforesaid, until the same were or shall be publicly made known or acted upon therein: Provided that any Act or Thing heretofore done or

 purporting

Past Acts to be valid.

purporting to have been done in pursuance or under Authority of such Letters Patent shall be as valid and effectual as if the same Letters Patent had taken effect at the Date of the making thereof.

Future Letters Patent not to take effect in Colony till Publication.

2. No such Letters Patent hereafter to be made shall (unless otherwise provided therein or by other lawful Authority) take effect in any such Colony or Possession until the making of the same shall have been signified therein by Proclamation or other public Notice.

Appointments by Letters Patent to be void unless published within Six or Nine Months.

3. Any such Letters Patent by which any Person may be hereafter appointed to any Office or Employment within any of such Colonies or Possessions shall (unless otherwise provided therein or by other lawful Authority) become null and void in respect of such Colony, unless the same shall be so signified as aforesaid within the following Period; that is to say, within Nine Calendar Months in case such Colony or Possession shall be to the Eastward of Bengal in the East Indies, or to the West of Cape Horn in South America, or in any other Case within Six Months after the making thereof.

Repeal of 9 & 10 Vict. c. 91.

4. The Act, Chapter Ninety-one, of the Ninth and Tenth Years of Her Majesty, intituled "An Act to continue certain Patent Commissions until the Exhibition of the Commissions revoking them," is hereby repealed.

Period of coming into operation.

5. This Act shall take effect in each of Her Majesty's Colonies and Possessions so soon as the same shall be proclaimed therein by the Officer administering the Government thereof.

3 *July* 1863. 26 & 27 Vict.

A

BILL

FOR

Consolidating in One Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a public Nature.

WHEREAS The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, were passed in order to comprise in One General Act such Provisions relating to the Constitution and Management of Joint Stock Companies incorporated for the Purpose of carrying on Undertakings of a public Nature in England or Ireland, or in Scotland, respectively, as were at the Times of the passing of those Acts usually introduced into Acts of Parliament relating to such Companies: Preamble.

And whereas sundry Provisions of the like Nature, but not comprised in the said General Acts respectively, are now frequently introduced into Acts of Parliament relating to such Companies, and it is expedient to comprise such last-mentioned Provisions also in One General Act, such Act to be applicable to England or Ireland, or to Scotland, as the Case may require, and that as well for the Purpose of avoiding the

Necessity of repeating such Provisions in the Acts relating to such Undertakings, as for ensuring greater Uniformity in the Provisions themselves:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as The Companies Clauses Act, 1863.

Division of Act into Parts.

2. This Act shall be deemed to be divided into Four Parts, as follows:

Part I. relating to Cancellation and Surrender of Shares;
Part II. relating to Additional Capital;
Part III. relating to Debenture Stock;
Part IV. relating to Change of Name.

Part I.

Cancellation and Surrender of Shares.

Application of Part I.

3. This Part of this Act shall apply to every Company incorporated either before or after the passing of this Act which obtains a Special Act incorporating this Part of this Act.

Power for Company to cancel forfeited Shares.

4. Where any Share of the Capital of the Company is after the passing of this Act declared forfeited under and in pursuance of the Provisions with respect to the Forfeiture of Shares for Nonpayment of Calls contained in The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, and the Forfeiture is confirmed by a Meeting in accordance with the same Provisions respectively, and Notice of the Forfeiture has been given,—then and in every such Case, if the Directors of the Company are unable to sell the Share for a Sum equal to the Arrears of Calls and Interest and Expenses due in respect thereof, the Company at any General Meeting held not less than *Two* Months after such Notice is given, may, in case Payment of th Arrears of Calls, Interest, and Expenses due in respect thereof is not made by the registered Holder of the Share before the Meeting is held, resolve that the Share instead of being sold shall be cancelled, and the Share shall thereupon be cancelled accordingly.

Evidence for Cancellation of forfeited Shares.

5. A Declaration in Writing made by some credible Person, in England or Ireland before a Justice, and in Scotland before any Sheriff

Sheriff or Justice, stating that a Sum of Money sufficient to pay the Arrears of Calls, Interest, and Expenses due in respect of the Share, could not at the Time of the Cancellation of the Share be obtained for the same upon the Stock Exchange prescribed in that behalf in the Special Act, and if none such is prescribed then upon the Stock Exchange, as to England, of the City of London, and as to Scotland of , and as to Ireland of the City of Dublin, shall be sufficient Evidence of the Fact so declared.

Payment of Calls in arrear notwithstanding Cancellation.

6. Where it is so resolved that any Share shall be cancelled, the Holder thereof shall from and after the passing of the Resolution be precluded from all Right and Interest therein and in respect thereof; but the Cancellation shall not affect the Liability of the last registered Holder of the Share to pay to the Company all Arrears of Calls, Interest, and Expenses due in respect of the Share at the Time of the Cancellation, or the Power of the Company to enforce Payment thereof by Action or otherwise.

Value of forfeited Shares to be deducted from Amount due in respect thereof.

7. Provided always, That if the Company enforces the Payment of the Arrears of Calls, Interest, and Expenses under the last preceding Provision, the Value of the Share at the Time of the Cancellation thereof shall be deducted from the Amount so then due; provided also, that if Payment of all Arrears of Calls, Interest, and Expenses is made before such Meeting as aforesaid is held, the Share shall revert to the Person to whom it belonged at the Time of Forfeiture, and shall be re-entered on the Company's Register accordingly.

Company may cancel Forfeited Shares with Consent of Holders.

8. Where any Share is declared forfeited, or where any Sum payable on any Share remains unpaid, the Company with the Consent in Writing of the registered Holder of the Share, and with the Sanction of a General Meeting, may resolve that the Share shall be cancelled, and immediately thereupon the Share shall be cancelled, and all Liabilities and Rights with respect to the Share shall thereupon be absolutely extinguished.

Surrender of Shares.

9. The Company may from Time to Time accept, on such Terms as they think fit, Surrenders of any Shares which have not been fully paid up.

No Money to be paid for Cancellation or Surrender.

10. The Company shall not pay or refund to any Shareholder any Sum of Money for or in respect of the Cancellation or Surrender of any Share.

Power to create Shares in

11. The Company may from Time to Time, in lieu of any Shares that have been cancelled or surrendered, issue new Shares of such

lieu of cancelled, forfeited, &c., Shares.

Amounts as will allow the same to be conveniently apportioned or disposed of according to the Resolution of any Ordinary or Extraordinary Meeting of the Company, and may from Time to Time fix the Amounts and Times of Payment of the Calls on any such new Shares, and dispose thereof on such Terms and Conditions as may be so resolved upon: Provided, that the aggregate nominal Amount of such new Shares shall not exceed the aggregate nominal Amount of the Shares in lieu of which such new Shares are issued, after deducting the Amount actually paid up in respect of any Shares cancelled or surrendered.

Part II.

Additional Capital.

New Ordinary Shares or Stock.

Regulations as to Creation and Issue of Ordinary Shares or new Ordinary Stock.

12. Where any Company, incorporated either before or after the passing of this Act, for the Purpose of carrying on any Undertaking, is authorized by any Special Act hereafter passed and incorporating this Part of this Act to raise any additional Sum or Sums by the Issue of new Ordinary Shares, or by the Issue of new Ordinary Stock, or (at the Option of the Company) by either of those Modes,—then and in every such Case the Company, with the Sanction of such Proportion of the Votes of the Shareholders and Stockholders entitled to vote in that Behalf at Meetings of the Company present (personally or by proxy) at a Meeting of the Company specially convened for the Purpose, as may be prescribed in the Special Act, and if no Proportion is prescribed, then of *Three Fifths* of such Votes, may, for the Purpose of raising the additional Sum or Sums, from Time to Time create and issue (according as the Authority given by the Special Act extends to Shares only, or to Stock only, or to both) such new Ordinary Shares, of such nominal Amount, and subject to the Payment of Calls of such Amounts and at such Times as the Company thinks fit, or such new Ordinary Stock as the Company thinks fit.

Preference Shares or Stock.

Regulations as to Creation and Issue of new Preference Shares or new Preference Stock.

13. Where any such Company is authorized by any Special Act hereafter passed and incorporating this Part of this Act to raise any additional Sum or Sums by the Issue of new Preference Shares, or by the Issue of new Preference Stock, or (at the Option of the Company) by either of those Modes,—then and in every such Case the Company, with the like Sanction as aforesaid, may for the Purpose of raising such additional Sum or Sums, from Time to Time create and issue (according as the Authority

rity given by the Special Act extends to Shares only, or to Stock only, or to both) such new Shares or new Stock, either Ordinary or Preference, and either of one Class and with like Privileges, or of several Classes and with different Privileges, and of the same or different Amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, or other Dividend or Interest, not exceeding the Rate prescribed in that Behalf by the Special Act, and if no such Rate is prescribed then not exceeding the Rate of *Five* Pounds per Centum per Annum, and with or without any other special Privileges, and subject (as to any such new Shares) to the Payment of Calls of such Amounts and at such Times as the Company from Time to Time thinks fit:

Saving Rights of Preference Shareholders.

Provided always, that any Preference assigned to any Shares or Stock issued under the Special Act shall not affect any Guarantee, or any Preference or Priority in the Payment of Dividend or Interest, on any Shares or Stock, that may have been granted by the Company under or confirmed by any previous Special Act, or that may be otherwise lawfully subsisting.

Power to issue Preferential Shares or Stock with Condition of future Shares or Stock being admitted to like Preference.

14. Where any such Company, by virtue of any such Authority as aforesaid, issues any new Preference Shares or new Preferenc Stock, the Company, with the like Sanction as aforesaid, may direct that the same or any Portion thereof shall be issued and held subject to the following Condition; namely,

A Condition that the Company may from Time to Time thereafter, with the like Sanction as aforesaid, issue, with the like preferential Dividend or other special Privileges, and with the like Priority or Preference, any other new Shares, or new Stock, which the Company may from Time to Time be authorized to issue, in such Manner and on such Terms that the whole of the new Shares, or new Stock, issued subject to such Condition, and from Time to Time thereafter issued, may, whatever be the Amount from Time to Time thereof, form one and the same Class of the Company's Capital, entitling the several Holders of Shares thereof or of the several Portions of Stock, without regard to the Times of Issue, to like preferential Dividend and other special Privileges (if any) and without any Preference or Priority as among themselves.

Preference Shares to be entitled to Dividends only out of the Profits of each Year.

15. Any Preference Shares or Preference Stock issued by the Company by virtue of any such Authority as aforesaid shall be entitled to the preferential Dividend or Interest assigned thereto, out of the Profits of each Year, in priority to the Ordinary Shares and Ordinary Stock of the Company; but if in any Year ending on the Day prescribed in the Special Act, and if no Day is prescribed,

then on the *Thirty-first* Day of *December*, there are not Profits available for the Payment of the full Amount of preferential Dividend or Interest for that Year, no Part of the Deficiency shall be made good out of the Profits of any subsequent Year, or out of any other Funds of the Company.

Terms to be stated on Certificates.

16. The Terms and Conditions to which any Preference Share or Preference Stock is subject shall be clearly stated on the Certificate of that Preference Share or Portion of Preference Stock.

General Provisions as to new Shares or Stock.

Unissued Shares and Stock may be cancelled and extinguished.

17. If, after having created any such new Shares or new Stock by virtue of any such Authority as aforesaid, the Company determines not to issue the whole of the new Shares or new Stock so created, they may cancel the unissued new Shares or new Stock.

If Ordinary Stock or Shares at a Premium new Shares or Stock to be offered to existing ordinary Shareholders.

18. If, at the Time of the Issue of any such new Shares or new Stock, the Ordinary Shares or Ordinary Stock of the Company are or is at a Premium, then, unless the Company before the issue of the new Shares or new Stock otherwise determines, the new Shares or new Stock then issued shall be of such Amount as will conveniently allow the same to be apportioned among the then Holders of the Ordinary Stock and Ordinary Shares, respectively, in proportion, as nearly as conveniently may be, to the Ordinary Shares and Ordinary Stock held by them respectively, and shall be offered to them at par in that Proportion: Provided, that it shall not be obligatory on the Company so to apportion or offer any new Shares or new Stock unless the Amount of every new Share or Portion of new Stock to be so offered would if so apportioned be at least the Sum prescribed in that behalf by the Special Act, and if no such Sum is prescribed then at least *Ten* Pounds.

Offer to be made by Letter.

19. Every such Offer of new Shares or new Stock shall be made by Letter under the Hand of the Treasurer or Secretary of the Company given to every such Shareholder or Stockholder as aforesaid, or sent by Post addressed to him according to his Address in the Shareholders or Stockholders Address Book, or left for him at his usual or then last known Place of Abode in England, Scotland, or Ireland (as the Case may require); and every such Offer made by Letter sent by Post shall be considered as made on the Day on which the Letter in due course of Delivery ought to be delivered at the Place to which it is addressed.

New Shares or Stock to vest on Acceptance.

20. The new Shares or Portions of new Stock so offered shall vest in and belong to the Shareholders or Stockholders who accept the same or their Nominees.

21. If

Disposal of new Shares or Stock to others.

21. If any Shareholder or Stockholder fails for the Time prescribed in that Behalf by the Special Act, and if no such Time is prescribed then for *One Month*, after the Offer to him of new Shares or new Stock, to signify his Acceptance of the same or any Part thereof, then and in every such Case at the Expiration of that Period he shall be deemed to have declined the Offer of such new Shares or new Stock or such Part thereof as aforesaid, and the same may be disposed of by the Company as herein-after provided:

Power to enlarge Time for accepting new Shares or Stock.

Provided, that where any such Shareholder or Stockholder, from Absence abroad or other Cause satisfactory to the Directors of the Company, omits to signify within the Time aforesaid his Acceptance of the new Shares or new Stock offered to him, the Directors, if they think proper, may permit him to accept the same, notwithstanding that such Time has elapsed.

General Power to dispose of unappropriated new Shares and Stock.

22. Subject to the foregoing Provisions, the Company may from Time to Time dispose of such new Shares and new Stock as aforesaid, at such Times, to such Persons, on such Terms and Conditions, and in such Manner, as the Directors think advantageous to the Company, but so that not less than the full nominal Amount of any Share or Portion of Stock be payable or paid in respect thereof.

Part III.

Debenture Stock.

Regulations as to Creation and Issue of Debenture Stock.

23. Where any Company, incorporated either before or after the passing of this Act, for the Purpose of carrying on any Undertaking, is authorized by any Special Act hereafter passed, and incorporating this Part of this Act, to create and issue Debenture Stock,—then and in every such Case the Company, with the Sanction of such Proportion of the Votes of the Shareholders and Stockholders entitled to vote in that Behalf at Meetings of the Company present (personally or by proxy) at a Meeting of the Company specially convened for the Purpose, as may be prescribed in the Special Act, and if no Proportion is prescribed, then of *Three Fifths* of such Votes, may from Time to Time raise all or any Part of the Money which for the Time being they have raised, or are authorized to raise, on Mortgage or Bond, by the Creation and Issue, at such Times, in such Amounts and Manner, on such Terms, subject to such Conditions, and with such Rights and Privileges as the Company thinks fit, of Stock to be called Debenture Stock, instead of and to the same Amount as, or if so agreed in exchange for, the whole or any Part of the Money which may for the Time being be owing by the Company on Mortgage or Bond, or which they may from Time to Time have Power to raise

on Mortgage or Bond, and may attach to the Stock so created such fixed and perpetual preferential Interest not exceeding the Rate prescribed in the Special Act, and if no Rate is prescribed, then not exceeding the Rate of *Four* Pounds per Centum per Annum, payable half-yearly or otherwise, and commencing at once, or at any future Time or Times, when and as such Debenture Stock is issued, or otherwise, as the Company thinks fit.

Debenture Stock to be a prior Charge.

24. All such Debenture Stock, with the Interest thereon, shall be a Charge upon the General Undertaking of the Company, prior to all Shares or Stock of the Company, and shall be transmissible and transferable as other Shares or Stock of the Company, and shall in all other respects have the Incidents of Personal Estate.

Interest on Debenture Stock to be a primary Charge.

25. The Interest on such Debenture Stock shall have Priority of Payment over all Dividends or Interest on any Shares or Stock of the Company, whether Ordinary or Preference or guaranteed, and shall rank next to the Interest payable on the Mortgages or Bonds for the Time being of the Company; but the respective Holders of such Debenture Stock shall not, as among themselves, be entitled to any Preference or Priority.

Payment of Arrears to be enforced by Appointment of Receiver or Judicial Factor.

26. If within *Thirty Days* after the Interest on any such Debenture Stock is payable, the same is not paid, any One or more of the Holders of such Debenture Stock holding, individually or collectively, the Sum in nominal Amount thereof prescribed in the Special Act, and if no Sum is prescribed, then a Sum equal to *One Fifth* of the aggregate Amount which the Company is for the Time being authorized to raise by Mortgage, by Bond, and by Debenture Stock, or the Sum of *Ten thousand* Pounds, whichever of the Two last-mentioned Sums is the smaller Sum, may (without Prejudice to the Right to sue in any Court of competent Jurisdiction for the Interest so in arrear) require the Appointment in England or Ireland of a Receiver, and in Scotland of a Judicial Factor.

Mode of appointing Receiver or Judicial Factor.

27. Every such Application for a Receiver shall be made to Two Justices, and every such Application for a Judicial Factor shall be made to the Court of Session; and on any such Application, such Justices or Court (as the Case may be), by Order in Writing, after hearing the Parties, may appoint some Person to receive the whole or a competent Part of the Tolls or Sums liable to the Payment of such Interest, until all the Arrears of such Interest then due on such Stock, with all Costs, including the Charges of receiving the Tolls or Sums, are fully paid; and upon such Appointment being made, all such Tolls or Sums shall be paid to and received by the Person so appointed;

appointed; and all Money so received shall be deemed so much Money received by or to the use of the several Persons interested in the same, according to their several Priorities.

The Receiver or Judicial Factor shall distribute rateably and without Priority, among all the Proprietors of Debenture Stock to whom Interest is in arrear, the Money which so comes to his Hands, after applying a sufficient Part of such Money in or towards Satisfaction, according to their respective Priorities, of the Interest on the Mortgages and Bonds (if any) having respectively any Priority or Preference over the Interest so in arrear.

As soon as the full Amount of such Interest and Costs has been so received, the Power of such Receiver or Judicial Factor shall cease, and he shall be bound to account to the Company for his Acts or Intromissions or the Sums received by him, and to pay over to the Company any Balance that may be in his Hands.

Arrears may be recovered by Action or Suit.

28. If the Interest on any such Debenture Stock is in arrear for *Thirty* Days next after any of the respective Days whereon the same is payable, the Holder for the Time being of such Debenture Stock may (without Prejudice to his Power to apply for the Appointment of a Receiver or Judicial Factor) recover such Arrears with Costs by Action or Suit against the Company in any Court of competent Jurisdiction.

Debenture Stock to be registered.

29. The Company shall cause Entries of the Debenture Stock from Time to Time created to be made in a Register to be kept for that Purpose, wherein they shall enter the Names and Addresses of the several Persons and Corporations from Time to Time entitled to any such Debenture Stock, with the respective Amounts of such Stock to which such Parties are respectively entitled, and such Register shall be accessible for Inspection and Perusal at all reasonable Times to every Mortgagee, Bondholder, Debenture Stock Holder, Shareholder, and Stockholder of the Company, without the Payment of any Fee or Charge.

Mortgages not affected by this Act.

30. Nothing herein or in the Special Act authorizing the Issue of Debenture Stock contained shall in any Way affect any Mortgage or Bond at any Time granted by the Company, or any Power of the Company to raise Money on Mortgage or Bond, but the Holders of all such Mortgages and Bonds shall, during the Continuance thereof respectively, be entitled to the same Priorities, Rights, and Privileges, in all respects, as they would have been entitled to if the Special Act authorizing the Issue of such Debenture Stock had not been passed.

Holders of Debenture Stock not to vote.

31. Debenture Stock shall not entitle the Holders thereof to be present and vote at any Meeting of the Company, or confer any Qualification, but shall, in all respects not otherwise by this Act or the Special Act provided for, be considered as entitling the Holders to the Rights and Powers of Mortgagees of the Undertaking other than the Right to require Repayment of the Principal Money paid up in respect of the Debenture Stock.

Application of Money raised.

32. Money raised by Debenture Stock shall be applied exclusively either in paying off Money due by the Company on Mortgage or Bond, or else for the Purposes to which the same Money would be applicable if it were raised on Mortgage or Bond instead of on Debenture Stock.

Accounts of Debenture Stock Money and its Application to be kept.

33. Separate and distinct Accounts shall be kept by the Company, showing how much Money has been received for or on account of Debenture Stock, and how much Money borrowed or owing on Mortgage or Bond, or which they have Power so to borrow, has been paid off by such Debenture Stock, or raised thereby, instead of being borrowed on Mortgage or Bond.

Borrowing Powers extinguished to extent of Debenture Stock.

34. The Powers of borrowing and re-borrowing by the Company shall, to the Extent of the Money raised by the Issue of Debenture Stock, be extinguished.

Application of Part III. to Mortgage Preference Stock, and Funded Debt.

35. The Provisions of this Part of this Act shall be deemed to apply to Mortgage Preference Stock, and to Funded Debt, as the Case may require, in all respects as if such last-mentioned Stock or Debt were mentioned throughout this Part of this Act wherever Debenture Stock is mentioned therein.

Part IV.

Change of Name.

Alteration of Name.

36. Where by any Special Act hereafter passed and incorporating this Part of this Act the Name of any Company incorporated either before or after the passing of this Act for the Purpose of carrying on any Undertaking is changed,—then and in every such Case from the passing of the Special Act the Company by their new Name shall have and may exercise the Powers then vested in the Company by their original Name; and all Acts relating to the Company by their original Name shall be read and interpreted as if throughout those Acts, wherever the original Name of the Company or any Reference to the Company by their original Name occurs, the

the new Name of the Company or a Reference to the Company by their new Name were substituted.

Actions, &c. not to abate.

37. No Action, Suit, Bill, Process, Writ, Indictment, Information, or other Proceeding, whether civil or criminal, which at or immediately before the passing of the Special Act is commenced and is then pending,—either at the Suit or Instance of the Company, by their original Name, against any other Corporation or any Person, or at the Suit or Instance of any other Corporation or any Person against the Company, by their original Name,—shall abate, determine, or be otherwise impeached or affected for or by reason of the Change of the Name of the Company; nor shall any Notice, Tender, Requisition, Warrant, Summons, Pleading, civil or criminal Writ or other Process, Record, Deed, Contract, Agreement, Writing, or Instrument then or thereafter to be made, issued, written, or commenced, be deemed to be vacated, discharged, invalidated, prejudiced, or affected by reason of the Company or their Undertaking being therein respectively called by the original Name of the Company or Undertaking; and it shall not be necessary in any Bill, Suit, Indictment, Information, Proceeding, Notice, Tender, Requisition, Warrant, Summons, Pleading, civil or criminal Writ, or other Process, or in any Record, Deed, Contract, Agreement, Writing, or other Instrument or Matter, to aver that the Company had been called or known for any Period by the original Name of the Company, or that their Undertaking had been called or known within that Period by the original Name of the Undertaking, and that by the Special Act effecting the Change the Names of the Company and their Undertaking were changed, and that after the passing of that Special Act the Company had been called or known by their new Name and their Undertaking by its new Name; but it shall be deemed true, lawful, and sufficient therein to aver the Style and describe the Company by their new Name and their Undertaking by its new Name, in the same Manner as if the Company had been originally incorporated, called or known by their new Name, and as if their Undertaking had been originally called or known by its new Name.

General Saving of Rights.

38. Notwithstanding the Change of the Name of the Company, everything before the passing of the Special Act effecting the Change done, suffered, or confirmed under or by virtue of any other Special Act shall be as valid as if the Special Act effecting the Change were not passed; and such Change of Name and last-mentioned Special Act respectively shall accordingly be subject and without Prejudice to everything so done, suffered, or confirmed before the passing of such last-mentioned Special Act, and to all Rights, Liabilities, Claims, and Demands, then present or future, which, if such Change of Name had

had not happened and such last-mentioned Special Act had not been passed, would be incident to or consequent on anything so done, suffered, or confirmed.

Contracts, &c. preserved.

39. Notwithstanding the Change of the Name of the Company, all Deeds, Instruments, Purchases, Sales, Securities, and Contracts before the passing of the Special Act effecting the Change made under any other Special Act, or with reference to the Purposes thereof, shall be as effectual, to all Intents, in favour of, against, and with respect to the Company as if the Name of the Company had remained unchanged.

Companies Clauses.

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B I L L

For consolidating in One Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a public Nature.

(Prepared and brought in by Mr. Milner Gibson and Mr. Hutt.)

Ordered, by The House of Commons, *to be Printed,* 3 *July* 1863.

[Bill 209.] *Under 2 oz.*

13 *July* 1863. 26 & 27 Vict.

A

BILL

[AS AMENDED IN COMMITTEE]

FOR

Consolidating in One Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a public Nature.

WHEREAS The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, were passed in order to comprise in One General Act such Provisions relating to the Constitution and Management of Joint Stock Companies incorporated for the Purpose of carrying on Undertakings of a public Nature in England or Ireland, or in Scotland, respectively, as were at the Times of the passing of those Acts usually introduced into Acts of Parliament relating to such Companies: Preamble.

And whereas sundry Provisions of the like Nature, but not comprised in the said General Acts respectively, are now frequently introduced into Acts of Parliament relating to such Companies, and it is expedient to comprise such last-mentioned Provisions also in One General Act, such Act to be applicable to England or Ireland, or to Scotland, as the Case may require, and that as well for the Purpose of avoiding the

Necessity of repeating such Provisions in the Acts relating to such Undertakings, as for ensuring greater Uniformity in the Provisions themselves:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as The Companies Clauses Act, 1863.

Division of Act into Parts.

2. This Act shall be deemed to be divided into Four Parts, as follows:

Part I. relating to Cancellation and Surrender of Shares;
Part II. relating to Additional Capital;
Part III. relating to Debenture Stock;
Part IV. relating to Change of Name.

Part I.

Cancellation and Surrender of Shares.

Application of Part I.

3. This Part of this Act shall apply to every Company incorporated either before or after the passing of this Act which obtains a Special Act incorporating this Part of this Act.

Power for Company to cancel forfeited Shares.

4. Where any Share of the Capital of the Company is after the passing of this Act declared forfeited under and in pursuance of the Provisions with respect to the Forfeiture of Shares for Nonpayment of Calls contained in The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, and the Forfeiture is confirmed by a Meeting in accordance with the same Provisions respectively, and Notice of the Forfeiture has been given,—then and in every such Case, if the Directors of the Company are unable to sell the Share for a Sum equal to the Arrears of Calls and Interest and Expenses due in respect thereof, the Company at any General Meeting held not less than *Two* Months after such Notice is given, may, in case Payment of th Arrears of Calls, Interest, and Expenses due in respect thereof is not made by the registered Holder of the Share before the Meeting is held, resolve that the Share instead of being sold shall be cancelled, and the Share shall thereupon be cancelled accordingly.

Evidence for Cancellation of forfeited Shares.

5. A Declaration in Writing made by some credible Person, in England or Ireland before a Justice, and in Scotland before any Sheriff

Sheriff or Justice, stating that a Sum of Money sufficient to pay the Arrears of Calls, Interest, and Expenses due in respect of the Share, could not at the Time of the Cancellation of the Share be obtained for the same upon the Stock Exchange prescribed in the Special Act, and if no Stock Exchange is prescribed then upon the Stock Exchange, as to England, of the City of London, and as to Scotland of , and as to Ireland of the City of Dublin, shall be sufficient Evidence of the Fact so declared.

Payment of Calls in arrear notwithstanding Cancellation.

6. Where it is so resolved that any Share shall be cancelled, the Holder thereof shall from and after the passing of the Resolution be precluded from all Right and Interest therein and in respect thereof; but the Cancellation shall not affect the Liability of the last registered Holder of the Share to pay to the Company all Arrears of Calls, Interest, and Expenses due in respect of the Share at the Time of the Cancellation, or the Power of the Company to enforce Payment thereof by Action or otherwise.

Value of forfeited Shares to be deducted from Amount due in respect thereof.

7. Provided always, That if the Company enforces the Payment of the Arrears of Calls, Interest, and Expenses under the last preceding Provision, the Value of the Share at the Time of the Cancellation thereof shall be deducted from the Amount so then due; provided also, that if Payment of all Arrears of Calls, Interest, and Expenses is made before such Meeting as aforesaid is held, the Share shall revert to the Person to whom it belonged at the Time of Forfeiture, and shall be re-entered on the Company's Register accordingly.

Company may cancel Forfeited Shares with Consent of Holders.

8. Where any Share is declared forfeited, or where any Sum payable on any Share remains unpaid, the Company with the Consent in Writing of the registered Holder of the Share, and with the Sanction of a General Meeting, may resolve that the Share shall be cancelled, and immediately thereupon the Share shall be cancelled, and all Liabilities and Rights with respect to the Share shall thereupon be absolutely extinguished.

Surrender of Shares.

9. The Company may from Time to Time accept, on such Terms as they think fit, Surrenders of any Shares which have not been fully paid up.

No Money to be paid for Cancellation or Surrender.

10. The Company shall not pay or refund to any Shareholder any Sum of Money for or in respect of the Cancellation or Surrender of any Share.

Power to create Shares in

11. The Company may from Time to Time, in lieu of any Shares that have been cancelled or surrendered, issue new Shares of such

lieu of cancelled, forfeited, &c., Shares.

Amounts as will allow the same to be conveniently apportioned or disposed of according to the Resolution of any Ordinary or Extraordinary Meeting of the Company, and may from Time to Time fix the Amounts and Times of Payment of the Calls on any such new Shares, and dispose thereof on such Terms and Conditions as may be so resolved upon: Provided, that the aggregate nominal Amount of the new Shares shall not exceed the aggregate nominal Amount of the Shares in lieu of which the new Shares are issued, after deducting the Amount actually paid up in respect of the Shares cancelled or surrendered.

Part II.

Additional Capital.

New Ordinary Shares or Stock.

Regulations as to Creation and Issue of Ordinary Shares or new Ordinary Stock.

12. Where any Company, incorporated either before or after the passing of this Act for the Purpose of carrying on any Undertaking, is authorized by any Special Act hereafter passed, and incorporating this Part of this Act, to raise any additional Sum or Sums by the Issue of new Ordinary Shares, or by the Issue of new Ordinary Stock, or (at the Option of the Company) by either of those Modes,—then and in every such Case the Company, with the Sanction of such Proportion of the Votes of the Shareholders and Stockholders entitled to vote in that Behalf at Meetings of the Company, present (personally or by proxy) at a Meeting of the Company specially convened for the Purpose, as is prescribed in the Special Act, and if no Proportion is prescribed, then of *Three Fifths* of such Votes, may, for the Purpose of raising the additional Sum or Sums, from Time to Time create and issue (according as the Authority given by the Special Act extends to Shares only, or to Stock only, or to both) such new Ordinary Shares, of such nominal Amount, and subject to the Payment of Calls of such Amounts and at such Times, as the Company thinks fit, or such new Ordinary Stock as the Company thinks fit.

Preference Shares or Stock.

Regulations as to Creation and Issue of new Preference Shares or new Preference Stock.

13. Where any such Company is authorized by any Special Act hereafter passed and incorporating this Part of this Act to raise any additional Sum or Sums by the Issue of new Preference Shares, or by the Issue of new Preference Stock, or (at the Option of the Company) by either of those Modes,—then and in every such Case the Company, with the like Sanction as aforesaid, may for the Purpose of raising such additional Sum or Sums, from Time to Time create and issue (according as the Authority

rity given by the Special Act extends to Shares only, or to Stock only, or to both) such new Shares or new Stock, either Ordinary or Preference, and either of one Class and with like Privileges, or of several Classes and with different Privileges, and of the same or different Amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, deferred, or other Dividend or Interest, not exceeding the Rate prescribed in the Special Act, and if no Rate is prescribed then not exceeding the Rate of *Five* Pounds per Centum per Annum, and with or without any other special Privileges, and subject (as to any such new Shares) to the Payment of Calls of such Amounts and at such Times, as the Company from Time to Time thinks fit:

Saving Rights of Preference Shareholders.

Provided always, that any Preference assigned to any Shares or Stock so issued under the Special Act shall not affect any Guarantee, or any Preference or Priority in the Payment of Dividend or Interest, on any Shares or Stock, that may have been granted by the Company under or confirmed by any previous Act, or that may be otherwise lawfully subsisting.

Power to issue Preferential Shares or Stock with Condition of future Shares or Stock being admitted to like Preference.

14. Where the Company issues any new Preference Shares or new Preference Stock, the Company, with the like Sanction as aforesaid, may direct that the same or any Portion thereof shall be issued and held subject to the following Condition; namely,

A Condition that the Company may from Time to Time thereafter, with the like Sanction as aforesaid, issue, with the like preferential Dividend or other special Privileges, and with the like Priority or Preference, any other new Shares, or new Stock, which the Company may from Time to Time be authorized to issue, in such Manner and on such Terms that the whole of the new Shares, or new Stock, issued subject to such Condition, and from Time to Time thereafter issued, may, whatever be the Amount from Time to Time thereof, form one and the same Class of the Company's Capital, entitling the several Holders of Shares thereof or of the several Portions of Stock, without regard to the Times of Issue, to like preferential Dividend and other special Privileges (if any) and without any Preference or Priority as among themselves.

Preference Shares to be entitled to Dividends only out of the Profits of each Year.

15. The Preference Shares or Preference Stock so issued shall be entitled to the preferential Dividend or Interest assigned thereto, out of the Profits of each Year, in priority to the Ordinary Shares and Ordinary Stock of the Company; but if in any Year ending on the Day prescribed in the Special Act, and if no Day is prescribed, then on the *Thirty-first* Day of *December*, there are not Profits available for the Payment of the full Amount of preferential

Dividend or Interest for that Year, no Part of the Deficiency shall be made good out of the Profits of any subsequent Year, or out of any other Funds of the Company.

Terms to be stated on Certificates.

16. The Terms and Conditions to which any Preference Share or Preference Stock is subject shall be clearly stated on the Certificate of that Preference Share or Portion of Preference Stock.

General Provisions as to new Shares or Stock.

Unissued Shares and Stock may be cancelled.

17. If, after having created new Shares or new Stock, the Company determines not to issue the whole of the new Shares or new Stock so created, they may cancel the unissued new Shares or new Stock.

If Ordinary Stock or Shares at a Premium new Shares or Stock to be offered to existing ordinary Shareholders.

18. If, at the Time of the Issue of any such new Shares or new Stock, the Ordinary Shares or Ordinary Stock of the Company are or is at a Premium, then, unless the Company before the issue of the new Shares or new Stock otherwise determines, the new Shares or new Stock then issued shall be of such Amount as will conveniently allow the same to be apportioned among the then Holders of the Ordinary Stock and Ordinary Shares, respectively, in proportion, as nearly as conveniently may be, to the Ordinary Shares and Ordinary Stock held by them respectively, and shall be offered to them at par in that Proportion: Provided, that it shall not be obligatory on the Company so to apportion or offer any new Shares or new Stock unless the Amount of every new Share or Portion of new Stock to be so offered would if so apportioned be at least the Sum prescribed in the Special Act, and if no Sum is prescribed then at least *Ten* Pounds.

Offer to be made by Letter.

19. The Offer of new Shares or new Stock shall be made by Letter under the Hand of the Treasurer or Secretary of the Company given to every such Shareholder or Stockholder as aforesaid, or sent by Post addressed to him according to his Address in the Shareholders or Stockholders Address Book, or left for him at his usual or then last known Place of Abode in England, Scotland, or Ireland (as the Case may require); and every such Offer made by Letter sent by Post shall be considered as made on the Day on which the Letter in due course of Delivery ought to be delivered at the Place to which it is addressed.

New Shares or Stock to vest on Acceptance.

20. The new Shares or Portions of new Stock so offered shall vest in and belong to the Shareholders or Stockholders who accept the same or their Nominees.

21. If

Disposal of new Shares or Stock to others.

21. If any Shareholder or Stockholder fails for the Time prescribed in the Special Act, and if no Time is prescribed then for *One Month*, after the Offer to him of new Shares or new Stock, to signify his Acceptance of the same or any Part thereof, then and in every such Case at the Expiration of that Period he shall be deemed to have declined the Offer of such new Shares or new Stock or such Part thereof as aforesaid, and the same may be disposed of by the Company as herein-after provided:

Power to enlarge Time for accepting new Shares or Stock.

Provided, that where a Shareholder or Stockholder, from Absence abroad or other Cause satisfactory to the Directors of the Company, omits to signify within the Time aforesaid his Acceptance of the new Shares or new Stock offered to him, the Directors, if they think proper, may permit him to accept the same, notwithstanding that such Time has elapsed.

General Power to dispose of unappropriated new Shares and Stock.

22. Subject to the foregoing Provisions, the Company may from Time to Time dispose of new Shares and new Stock, at such Times, to such Persons, on such Terms and Conditions, and in such Manner, as the Directors think advantageous to the Company, but so that not less than the full nominal Amount of any Share or Portion of Stock be payable or paid in respect thereof.

Part III.

Debenture Stock.

Regulations as to Creation and Issue of Debenture Stock.

23. Where any Company, incorporated either before or after the passing of this Act for the Purpose of carrying on any Undertaking, is authorized by any Special Act hereafter passed, and incorporating this Part of this Act, to create and issue Debenture Stock,—then and in every such Case the Company, with the Sanction of such Proportion of the Votes of the Shareholders and Stockholders entitled to vote in that Behalf at Meetings of the Company, present (personally or by proxy) at a Meeting of the Company specially convened for the Purpose, as is prescribed in the Special Act, and if no Proportion is prescribed, then of *Three Fifths* of such Votes, may from Time to Time raise all or any Part of the Money which for the Time being they have raised, or are authorized to raise, on Mortgage or Bond, by the Creation and Issue, at such Times, in such Amounts and Manner, on such Terms, subject to such Conditions, and with such Rights and Privileges, as the Company thinks fit, of Stock to be called Debenture Stock, instead of and to the same Amount as the whole or any Part of the Money which may for the Time being be owing by the Company on Mortgage or Bond, or which they may from Time to Time have Power to raise on Mortgage

or Bond, and may attach to the Stock so created such fixed and perpetual preferential Interest not exceeding the Rate prescribed in the Special Act, and if no Rate is prescribed, then not exceeding the Rate of *Four* Pounds per Centum per Annum, payable half-yearly or otherwise, and commencing at once, or at any future Time or Times, when and as the Debenture Stock is issued, or otherwise, as the Company thinks fit.

Debenture Stock to be a prior Charge.

24. Debenture Stock, with the Interest thereon, shall be a Charge upon the Undertaking of the Company, prior to all Shares or Stock of the Company, and shall be transmissible and transferable as other Stock of the Company, and shall in all other respects have the Incidents of Personal Estate.

Interest on Debenture Stock to be a primary Charge.

25. The Interest on Debenture Stock shall have Priority of Payment over all Dividends or Interest on any Shares or Stock of the Company, whether Ordinary or Preference or guaranteed, and shall rank next to the Interest payable on the Mortgages or Bonds for the Time being of the Company; but the Holders of Debenture Stock shall not, as among themselves, be entitled to any Preference or Priority.

Payment of Arrears to be enforced by Appointment of Receiver or Judicial Factor.

26. If within *Thirty Days* after the Interest on any such Debenture Stock is payable, the same is not paid, any One or more of the Holders of the Debenture Stock holding, individually or collectively, the Sum in nominal Amount thereof prescribed in the Special Act, and if no Sum is prescribed, then a Sum equal to *One Tenth* of the aggregate Amount which the Company is for the Time being authorized to raise by Mortgage, by Bond, and by Debenture Stock, or the Sum of *Ten thousand* Pounds, whichever of the Two last-mentioned Sums is the smaller Sum, may (without Prejudice to the Right to sue in any Court of competent Jurisdiction for the Interest in arrear) require the Appointment in England or Ireland of a Receiver, and in Scotland of a Judicial Factor.

Mode of appointing Receiver or Judicial Factor.

27. Every such Application for a Receiver shall be made to Two Justices, and every such Application for a Judicial Factor shall be made to the Court of Session; and on any such Application, the Justices or Court (as the Case may be), by Order in Writing, after hearing the Parties, may appoint some Person to receive the whole or a competent Part of the Tolls or Sums liable to the Payment of the Interest, until all the Arrears of Interest then due on the Debenture Stock, with all Costs, including the Charges of receiving the Tolls or Sums, are fully paid; and upon such Appointment being made, all such Tolls or Sums shall be paid to and received by the Person so appointed;

appointed; and all Money so received shall be deemed so much Money received by or to the use of the several Persons interested in the same, according to their several Priorities.

The Receiver or Judicial Factor shall distribute rateably and without Priority, among all the Proprietors of Debenture Stock to whom Interest is in arrear, the Money which so comes to his Hands, after applying a sufficient Part thereof in or towards Satisfaction of the Interest on the Mortgages and Bonds of the Company.

As soon as the full Amount of Interest and Costs has been so received, the Power of the Receiver or Judicial Factor shall cease, and he shall be bound to account to the Company for his Acts or Intromissions or the Sums received by him, and to pay over to the Company any Balance that may be in his Hands.

Arrears may be recovered by Action or Suit.

28. If the Interest on Debenture Stock is in arrear for *Thirty* Days next after any of the respective Days whereon the same is payable, the Holder for the Time being thereof may (without Prejudice to his Power to apply for the Appointment of a Receiver or Judicial Factor) recover the Arrears with Costs by Action or Suit against the Company in any Court of competent Jurisdiction.

Debenture Stock to be registered.

29. The Company shall cause Entries of the Debenture Stock from Time to Time created to be made in a Register to be kept for that Purpose, wherein they shall enter the Names and Addresses of the several Persons and Corporations from Time to Time entitled to the Debenture Stock, with the respective Amounts of the Stock to which they are respectively entitled; and the Register shall be accessible for Inspection and Perusal at all reasonable Times to every Mortgagee, Bondholder, Debenture Stock Holder, Shareholder, and Stockholder of the Company, without the Payment of any Fee or Charge.

Mortgages not affected by this Act.

30. Nothing herein or in the Special Act authorizing the Issue of Debenture Stock contained shall in any Way affect any Mortgage or Bond at any Time granted by the Company, or any Power of the Company to raise Money on Mortgage or Bond, but the Holders of all such Mortgages and Bonds shall, during the Continuance thereof respectively, be entitled to the same Priorities, Rights, and Privileges, in all respects, as they would have been entitled to if the Special Act authorizing the Issue of Debenture Stock had not been passed.

Holders of Debenture Stock not to vote.

31. Debenture Stock shall not entitle the Holders thereof to be present or vote at any Meeting of the Company, or confer any

Qualification, but shall, in all respects not otherwise by or under this Act or the Special Act provided for, be considered as entitling the Holders to the Rights and Powers of Mortgagees of the Undertaking other than the Right to require Repayment of the Principal Money paid up in respect of the Debenture Stock.

Application of Money raised.

32. Money raised by Debenture Stock shall be applied exclusively either in paying off Money due by the Company on Mortgage or Bond, or else for the Purposes to which the same Money would be applicable if it were raised on Mortgage or Bond instead of on Debenture Stock.

Separate Accounts of Debenture Stock.

33. Separate and distinct Accounts shall be kept by the Company, showing how much Money has been received for or on account of Debenture Stock, and how much Money borrowed or owing on Mortgage or Bond, or which they have Power so to borrow, has been paid off by Debenture Stock, or raised thereby, instead of being borrowed on Mortgage or Bond.

Borrowing Powers extinguished to extent of Debenture Stock.

34. The Powers of borrowing and re-borrowing by the Company shall, to the Extent of the Money raised by the Issue of Debenture Stock, be extinguished.

Application of Part III. to Mortgage Preference Stock, and Funded Debt.

35. The Provisions of this Part of this Act shall be deemed to apply to Mortgage Preference Stock, and to Funded Debt, as the Case may require, in all respects as if Mortgage Preference Stock or Funded Debt were mentioned throughout this Part of this Act wherever Debenture Stock is mentioned therein.

Part IV.

Change of Name.

Continuance of Powers.

36. Where by any Special Act hereafter passed and incorporating this Part of this Act the Name of any Company incorporated either before or after the passing of this Act for the Purpose of carrying on any Undertaking is changed,—then and in every such Case from the passing of the Special Act the Company by their new Name shall have and may exercise the Powers then vested in the Company by their original Name; and all Acts relating to the Company by their original Name shall be read and interpreted as if throughout those Acts, wherever the original Name of the Company or any Reference to the Company by their original Name occurs, the

the new Name of the Company or a Reference to the Company by their new Name were substituted.

Actions, &c. not to abate.

37. No Action, Suit, Bill, Process, Writ, Indictment, Information, or other Proceeding, whether civil or criminal, which at or immediately before the passing of the Special Act is commenced and is then pending,—either at the Suit or Instance of the Company, by their original Name, against any other Corporation or any Person, or at the Suit or Instance of any other Corporation or any Person against the Company, by their original Name,—shall abate, determine, or be otherwise impeached or affected for or by reason of the Change of the Name of the Company; nor shall any Notice, Tender, Requisition, Warrant, Summons, Pleading, civil or criminal Writ or other Process, Record, Deed, Contract, Agreement, Writing, or Instrument then or thereafter to be made, issued, written, or commenced, be deemed to be vacated, discharged, invalidated, prejudiced, or affected by reason of the Company or their Undertaking being therein respectively called by the original Name of the Company or Undertaking; and it shall not be necessary in any Bill, Suit, Indictment, Information, Proceeding, Notice, Tender, Requisition, Warrant, Summons, Pleading, civil or criminal Writ, or other Process, or in any Record, Deed, Contract, Agreement, Writing, or other Instrument or Matter, to aver that the Company had been called or known for any Period by the original Name of the Company, or that their Undertaking had been called or known within that Period by the original Name of the Undertaking, and that by the Special Act effecting the Change the Names of the Company and their Undertaking were changed, and that after the passing of that Special Act the Company had been called or known by their new Name and their Undertaking by its new Name; but it shall be deemed true, lawful, and sufficient therein to aver the Style and describe the Company by their new Name and their Undertaking by its new Name, in the same Manner as if the Company had been originally incorporated, called or known by their new Name, and as if their Undertaking had been originally called or known by its new Name.

General Saving of Rights.

38. Notwithstanding the Change of the Name of the Company, everything before the passing of the Special Act effecting the Change done, suffered, or confirmed under or by virtue of any other Act shall be as valid as if the Special Act effecting the Change were not passed; and the Change of Name and last-mentioned Special Act respectively shall accordingly be subject and without Prejudice to everything so done, suffered, or confirmed before the passing of the last-mentioned Special Act, and to all Rights, Liabilities, Claims, and Demands, then present or future, which, if the Change of Name had

had not happened and such last-mentioned Special Act had not been passed, would be incident to or consequent on anything so done, suffered, or confirmed.

Contracts, &c. preserved.

39. Notwithstanding the Change of the Name of the Company, all Deeds, Instruments, Purchases, Sales, Securities, and Contracts before the passing of the Special Act effecting the Change made under any other Act, or with reference to the Purposes thereof, shall be as effectual, to all Intents, in favour of, against, and with respect to the Company as if the Name of the Company had remained unchanged.

Companies Clauses.

A

B I L L

[AS AMENDED IN COMMITTEE]

For consolidating in One Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a public Nature.

(Prepared and brought in by Mr. Milner Gibson and Mr. Hutt.)

Ordered, by The House of Commons, *to be Printed.* 13 *July* 1863.

[Bill 229.] *Under 2 oz.*

LORDS AMENDMENTS

TO THE

COMPANIES CLAUSES BILL.

Note.—*The Page and Line refer to the Bill* (232.) *as printed by the Lords.*

Page 5.

Lines 9 and 10. Leave out ("and with or without any other special Privileges")

Leave out Clause 14.

Page 6.

Line 10. Leave out ("so created")

Line 12. Leave out ("any such")

Page 8.

Line 10. After ("transferable") insert ("in the same Manner and according to the same Regulations and Provisions")

Line 17. After ("Company") insert ("legally granted before the Creation of such Stock")

Page 9.

Line 29. After ("Charge") insert Clause A.

CLAUSE A. The Company shall deliver to every Holder of Debenture Stock a Certificate stating the Amount of Debenture Stock held by him; and all Regulations or Provisions for the Time being applicable to Certificates of Shares in the Capital of the Company shall apply, mutatis mutandis, to Certificates of Debenture Stock.

Line 32. After ("Time") insert ("legally") and after ("Company") insert ("before the Creation of such Stock")

[Bill 276.]

LORDS AMENDMENTS

TO THE

COMPANIES CLAUSES BILL.

Ordered, by The House of Commons, *to be Printed,*
25 *July* 1863.

[Bill 276.]

Under 1 *oz.*

17 *June* 1863. 26 Vict.

A

BILL

TO

Regulate Corporal Punishment in Schools and elsewhere.

Preamble.

WHEREAS it is expedient that Provision should be made for regulating the Use of Corporal Punishment by Schoolmasters, Tutors, and other Persons having the Charge of young Persons for the Purposes of Tuition or Training: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Schoolmasters, &c. inflicting Corporal Punishment otherwise than with a Birch Rod to be deemed guilty of Assault.

1. From and after the *passing of this Act* it shall not be lawful for any Schoolmaster, Usher, Tutor, or other Person having the Charge, Management, Custody, or Control of young Persons for the Purposes of Tuition or Training, and not being the Parents, Guardians, or nearest surviving Relatives of such young Persons, to inflict any Corporal Punishment on any such young Persons otherwise than by the Use of a Birch Rod; and every Person who shall act in contravention of this Act shall be deemed to be guilty of an Assault, and shall be punishable accordingly.

[Bill 169.]

Corrupt Practices at Elections Bill.

ARRANGEMENT OF CLAUSES.

Short Title of Acts; Sect. 1.

Disqualification of Agents; 2.

Authorized Agents for Payment of Expenses; 3.

Bills, &c. to be sent in within One Month to Agent, or Right to recover barred; 4.

Publication of Statement of Election Expenses; 5.

Sect. 14 of Corrupt Practices Prevention Act extended to Misdemeanors, &c.; 6.

General Allegations sufficient in Indictments; 7.

Evidence of Witness on Election Committee and before Commissions; 8.

Regulations for Election Committees; 9.

Prosecutions for Bribery; 10.

Suspension of Writs; 11.

Repeal of Acts; 12.

Continuance of Corrupt Practices Acts; 13.

SCHEDULE.

A

BILL

TO

Amend and continue the Law relating to Corrupt Practices at Elections of Members of Parliament.

Preamble.

WHEREAS the "Corrupt Practices Prevention Act, 1854," as amended by an Act of the Session holden in the Twenty-first and Twenty-second Years of Her Majesty, Chapter Eighty-seven, is limited to continue in force until the First Day of September One thousand eight hundred and sixty-three, and from thence until the End of the next Session of Parliament; and it is expedient further to amend the said Acts and to continue the same in manner herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Acts.

1. The Expression "the Corrupt Practices Prevention Acts" shall include this Act and the said Act of the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, and the Corrupt Practices Prevention Act, 1854, as amended by the said other Acts.

Agents.

Disqualification of Agents.

2. If any Person, either during any Election, or within *One Month* previous to such Election, be employed as Agent, Attorney,

Poll Clerk, Messenger, Doorkeeper, or in any other Capacity for the Purposes of such Election, in consideration of any Money, Retaining Fee, or other Payment made or promised or agreed to be made in respect of such Employment, such Person shall be incapable of voting at such Election, and if he give any Vote at such Election his Vote shall be void.

Expenses of Elections.

Authorized Agents for Payment of Expenses.

3. It shall not be lawful to make any Payment (except in respect of the personal Expenses of a Candidate,) by or on behalf of any Candidate at an Election on account of or in respect of such Election otherwise than through an Agent or Agents whose Name and Address or Names and Addresses have been declared in Writing to the Returning Officer before the Day of Nomination, or through an Agent or Agents to be appointed in his or their Place as herein provided; and any Person making any such Payment otherwise than through such Agent or Agents shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment. It shall be the Duty of the Returning Officer to publish, at or before the Day of Nomination, the Name and Address or the Names and Addresses of the Agent or Agents appointed in pursuance of this Section.

In the event of the Death or legal Incapacity of any Agent appointed in pursuance of this Section, the Candidate may appoint another Agent in his Place on giving Notice to the Returning Officer of the Name and Address of the Person so appointed, which shall be forthwith published by the Returning Officer.

Bills, &c. to be sent in within One Month to Agent, or Right to recover barred.

4. All Persons who have any Bills, Charges, or Claims upon any Candidate for or in respect of any Election shall send in such Bills, Charges, or Claims within *One Month* from the Day of the Declaration of the Election to such Agent or Agents as aforesaid, otherwise such Persons shall be barred of their Right to recover such Claims and every or any Part thereof: Provided always, that in case of the Death within the said Month of any Person claiming the Amount of such Bill, Charge, or Claim, the legal Representative of such Person shall send in such Bill, Charge, or Claim within *One Month* after obtaining Probate or Letters of Administration, or Confirmation as Executor, as the Case may be, or the Right to recover such Claim shall be barred as aforesaid.

Publication of Statement of Election Expenses.

5. A detailed Statement of all Election Expenses incurred by or on behalf of any Candidate, including such excepted Payments as aforesaid, shall, within *Three* Months after the Election, (or in Cases where by reason of the Death of the Creditor no Bill has been sent in within such Period of *Three* Months, then within *One Month* after such

such Bill has been sent in,) be made out and signed by the Agent, or, if there be more than One, by every Agent who has paid the same (including the Candidate in case of Payments made by him), and delivered, with the Bills and Vouchers relative thereto, to the Returning Officer, and such Returning Officer shall, as soon as conveniently may be, insert or cause to be inserted such Statement, with the Signature of the Agent thereto, in some Newspaper published or circulating in the County or Place where the Election was held; and any Agent or Candidate who makes default in delivering to the Returning Officer the Statement required by this Section shall incur a Penalty not exceeding *Five* Pounds for every Day during which he so makes default; and any Agent or Candidate who wilfully furnishes to the said Returning Officer an untrue Statement shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment; and the said Returning Officer shall preserve all such Bills and Vouchers, and during *Six* Months after they have been delivered to him permit any Voter to inspect the same, on Payment of a Fee of *One Shilling*.

Legal Proceedings.

Sect. 14 of Corrupt Practices Prevention Act extended to Misdemeanors, &c.

6. The Provisions of the Fourteenth Section of the Corrupt Practices Prevention Act, 1854, shall extend to a Misdemeanor or to any other Offence under the Corrupt Practices Prevention Acts not punishable by a Penalty or Forfeiture, as well as to Proceedings for any Offence punishable by a Penalty or Forfeiture.

General Allegations sufficient in Indictments.

7. In any Indictment or Information for Bribery or undue Influence, and in any Action or Proceeding for any Penalty for Bribery, Treating, or undue Influence, it shall be sufficient to allege that the Defendant was at the Election at or in connexion with which the Offence is intended to be alleged to have been committed guilty of Bribery, Treating, or undue Influence (as the Case may require); and in any Criminal or Civil Proceedings in relation to any such Offence the Certificate of the Returning Officer in this Behalf shall be sufficient Evidence of the due holding of the Election, and of any Person therein named having been a Candidate thereat.

Evidence of Witness on Election Committee and before Commissions.

8. No Person who is called as a Witness before any Election Committee, or any Commissioners appointed in pursuance of the Act of the Session holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-seven, shall be excused from answering any Question on the Ground that the Answer thereto may criminate or tend to criminate himself; and it shall be lawful for the Committee, under the Hand of their Clerk, or the Commissioners

under their Hands, to give to any Witness so examined a Certificate in Writing, stating that such Witness has upon his Examination made a true Disclosure touching all Things as to which he has been examined; and if any Information, Indictment, or Action be at any Time thereafter pending in any Court against such Witness for any Offence under the Corrupt Practices Prevention Acts, committed by him previously to the Time of his giving his Evidence, and at or in relation to the Election concerning or in relation to which the Witness may have been so examined, the Court shall, on Production and Proof of such Certificate, stay the Proceedings in such last-mentioned Information, Indictment, or Action, and may, at its Discretion, award to such Witness such Costs as he may have been put to in such Information, Indictment, or Action: Provided that no Statement made by any Person in answer to any Question put by or before such Election Committee or Commissioners shall, except in Cases of Indictments for Perjury, be admissible in Evidence in any Proceeding, Civil or Criminal.

Election Committees.

Regulations for Election Committees.

9. The following Regulations shall be made with respect to the Proceedings of Select Committees appointed to try Election Petitions:

1. On any Charge of Treating being brought before any Election Committee, it shall not be necessary to prove Agency in the first instance before giving in Evidence the Facts whereby the Charge of Treating is to be sustained:

2. Where any Person who has voted at any Election is found by any Committee to have been guilty of Bribery or Treating at such Election, his Vote shall be void, and may, upon a Scrutiny, be struck off the List of Voters, notwithstanding that the Name of such guilty Person has not been included in the List of Voters to be objected to:

3. Where any Election Petition complains that Bribery, Treating, or other Corrupt Practices have been committed at any Election, the Committee to whose Determination such Petition is referred shall report to the House of Commons whether or not Corrupt Practices have, or whether there is reason to believe Corrupt Practices have, extensively prevailed at such Election in the Place to which the Petition refers.

Prosecutions for Bribery.

10. Where an Election Committee has reported to the House of Commons that certain Persons named by them have been guilty of Bribery or Treating and ought to be prosecuted for such Offences, and where it appears by the Report of any Commission of Inquiry into Corrupt

Corrupt Practices at any Election made to Her Majesty and laid before Parliament that certain Persons named by them have been guilty of the Offences of Bribery or Treating, and have not been furnished by them with Certificates of Indemnity, such Report, with the Evidence taken by the Commission, shall be laid before the Attorney General, with a view to his instituting a Prosecution against such Persons if the Evidence should, in his Opinion, be sufficient to support a Prosecution.

Suspension of Writs.

11. When after the Presentation of a Report to Parliament by a Commission of Inquiry into Corrupt Practices at an Election for any County, City, or Borough, that extensive Bribery has prevailed in such Place, the House of Commons resolves that no Writ shall be issued for the Election of a Member or Members for such Place for a Period of Five Years, no Writ shall be issued for an Election for a Member or Members for such Place till the Expiration of *Five* Years from the Date of such Resolution; but this Provision shall not be held in any way to affect the Right of Parliament, either altogether to disfranchise such Place, or to alter, suspend, or take away the Right of voting of all or any of the Electors therein.

Repeal.

Repeal of Acts.

12. There shall be repealed the several Acts of Parliament mentioned in the Schedule hereto to the Extent specified in the Third Column of the said Schedule, but such Repeal shall not affect the Punishment of any Offence or the Recovery of any Penalty or Forfeiture incurred under any of the Provisions hereby repealed.

Continuance of Corrupt Practices Acts.

13. The Corrupt Practices Prevention Acts shall continue in force for a Period of *Five* Years from the Date of the passing of this Act, and from thenceforth until the *End of the then next Session of Parliament.*

The SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
15 & 16 Vict. c. 57. A.D. 1852.	An Act to provide for more effectual Inquiry into the Existence of Corrupt Practices at Elections for Members to serve in Parliament.	Sections 9 and 10.
17 & 18 Vict. c. 102. A.D. 1854.	An Act to consolidate and amend the Laws relating to Bribery, Treating, and undue Influence at Elections of Members of Parliament.	Sections 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 34.
21 & 22 Vict. c. 87. A.D. 1858.	An Act to continue and amend the Corrupt Practices Prevention Act, 1854.	So much of Section (1) as provides that a full, true, and particular Account of all Payments made for such Conveyance, signed by the Candidate or his Agents, shall be delivered to the Election Auditor with the Names and Addresses of the Persons to whom such Payments have been made, and the Amount of such Account shall be included in the General Account of the Expenses incurred at any Election to be made out and kept by such Election Auditor. And Sections 2, 4.

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend and continue the Law relating to Corrupt Practices at Elections of Members of Parliament.

Preamble.

WHEREAS the "Corrupt Practices Prevention Act, 1854," as amended by an Act of the Session holden in the Twenty-first and Twenty-second Years of Her Majesty, Chapter Eighty-seven, is limited to continue in force until the First Day of September One thousand eight hundred and sixty-three, and from thence until the End of the next Session of Parliament; and it is expedient further to amend the said Acts and to continue the same in manner herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Acts.

1. The Expression "the Corrupt Practices Prevention Acts" shall include this Act and the said Act of the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, and the Corrupt Practices Prevention Act, 1854, as amended by the said other Acts.

Expenses of Elections.

Authorized Agents for Payment of Expenses.

2. No Payment (except in respect of the personal Expenses of a Candidate), and no Advance, Loan, or Deposit, shall be made by or on

on behalf of any Candidate at an Election, before, or during, or after such Election, on account of or in respect of such Election, otherwise than through an Agent or Agents whose Name and Address or Names and Addresses have been declared in Writing to the Returning Officer on or before the Day of Nomination, or through an Agent or Agents to be appointed in his or their Place as herein provided; and any Person making any such Payment, Advance, Loan, or Deposit, otherwise than through such Agent or Agents, shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment. It shall be the Duty of the Returning Officer to publish, on or before the Day of Nomination, the Name and Address or the Names and Addresses of the Agent or Agents appointed in pursuance of this Section.

In the event of the Death or legal Incapacity of any Agent appointed in pursuance of this Section, the Candidate may appoint another Agent in his Place on giving Notice to the Returning Officer of the Name and Address of the Person so appointed, which shall be forthwith published by the Returning Officer.

Bills, &c. to be sent in within One Month to Agent, or Right to recover barred.

3. All Persons who have any Bills, Charges, or Claims upon any Candidate for or in respect of any Election shall send in such Bills, Charges, or Claims within One Month from the Day of the Declaration of the Election to such Agent or Agents as aforesaid, otherwise such Persons shall be barred of their Right to recover such Claims and every or any Part thereof: Provided always, that in case of the Death within the said Month of any Person claiming the Amount of such Bill, Charge, or Claim, the legal Representative of such Person shall send in such Bill, Charge, or Claim within One Month after obtaining Probate or Letters of Administration, or Confirmation as Executor, as the Case may be, or the Right to recover such Claim shall be barred as aforesaid.

Publication of Statement of Election Expenses.

4. A detailed Statement of all Election Expenses incurred by or on behalf of any Candidate, including such excepted Payments as aforesaid, shall, within Two Months after the Election, (or in Cases where by reason of the Death of the Creditor no Bill has been sent in within such Period of Two Months, then within One Month after such Bill has been sent in,) be made out and signed by the Agent or, if there be more than One, by every Agent who has paid the same (including the Candidate in case of Payments made by him), and delivered, with the Bills and Vouchers relative thereto, to the Returning Officer, and the Returning Officer for the Time being shall, at the Expense of the Candidate, within Fourteen Days, insert or cause to be inserted such Statement, with the Signature of the Agent thereto, in some Newspaper published or circulating in the County

County or Place where the Election was held; and any Agent or Candidate who makes default in delivering to the Returning Officer the Statement required by this Section shall incur a Penalty not exceeding Five Pounds for every Day during which he so makes default; and any Agent or Candidate who wilfully furnishes to the said Returning Officer an untrue Statement shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment; and the said Returning Officer shall preserve all such Bills and Vouchers, and during *Six* Months after they have been delivered to him permit any Voter to inspect the same, on Payment of a Fee of One Shilling.

Legal Proceedings.

Sect. 14 of Corrupt Practices Prevention Act extended to Misdemeanors, &c.

5. The Provisions of the Fourteenth Section of the Corrupt Practices Prevention Act, 1854, shall extend to a Misdemeanor or to any other Offence under the Corrupt Practices Prevention Acts not punishable by a Penalty or Forfeiture, as well as to Proceedings for any Offence punishable by a Penalty or Forfeiture.

General Allegations sufficient in Indictments.

6. In any Indictment or Information for Bribery or undue Influence, and in any Action or Proceeding for any Penalty for Bribery, Treating, or undue Influence, it shall be sufficient to allege that the Defendant was at the Election at or in connexion with which the Offence is intended to be alleged to have been committed guilty of Bribery, Treating, or undue Influence (as the Case may require); and in any Criminal or Civil Proceedings in relation to any such Offence the Certificate of the Returning Officer in this Behalf shall be sufficient Evidence of the due holding of the Election, and of any Person therein named having been a Candidate thereat.

Evidence of Witness on Election Committee and before Commissions.

7. No Person who is called as a Witness before any Election Committee, or any Commissioners appointed in pursuance of the Act of the Session holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-seven, shall be excused from answering any Question relating to any corrupt Practice at, or connected with, any Election forming the Subject of Inquiry by such Committee or Commissioners, on the Ground that the Answer thereto may criminate or tend to criminate himself: Provided always, that where any Witness shall answer every Question relating to the Matters aforesaid which he shall be required by such Committee or Commissioners (as the Case may be) to answer, and the Answer to which may criminate, or tend to criminate him, he shall be entitled to receive from the Committee, under the Hand of their Clerk, or from the Commissioners, under their Hands (as the Case may be), a

Certificate stating that such Witness was, upon his Examination, required by the said Committee or Commissioners to answer Questions or a Question relating to the Matters aforesaid, the Answers or Answer to which criminated or tended to criminate him, and had answered all such Questions or such Question; and if any Information, Indictment, or Action be at any Time thereafter pending in any Court against such Witness for any Offence under the Corrupt Practices Prevention Acts, or for which he might have been prosecuted or proceeded against under such Acts, committed by him previously to the Time of his giving his Evidence, and at or in relation to the Election concerning or in relation to which the Witness may have been so examined, the Court shall, on Production and Proof of such Certificate, stay the Proceedings in such last-mentioned Information, Indictment, or Action, and may, at its Discretion, award to such Witness such Costs as he may have been put to in such Information, Indictment, or Action: Provided that no Statement made by any Person in answer to any Question put by or before such Election Committee or Commissioners shall, except in Cases of Indictments for Perjury, be admissible in Evidence in any Proceeding, Civil or Criminal.

Election Committees.

Regulations for Election Committees.

8. The following Regulations shall be made with respect to the Proceedings of Select Committees appointed to try Election Petitions:

1. On any Charge of Treating being brought before any Election Committee, it shall not be necessary, unless the Committee should otherwise decide, to prove Agency in the first instance before giving in Evidence the Facts whereby the Charge of Treating is to be sustained:

2. Where any Person who has voted at any Election is found by any Committee to have been guilty of Bribery or Treating at such Election, his Vote shall be void, and may, upon a Scrutiny, be struck off the List of Voters, notwithstanding that the Name of such guilty Person has not been included in the List of Voters to be objected to:

3. Where any Election Petition complains that Bribery, Treating, or other Corrupt Practices have been committed at any Election, the Committee to whose Determination such Petition is referred shall report to the House of Commons whether or not Corrupt Practices have, or whether there is reason to believe Corrupt Practices have, extensively prevailed at such Election in the Place to which the Petition refers.

9. Where

Prosecutions for Bribery.

9. Where an Election Committee has reported to the House of Commons that certain Persons named by them have been guilty of Bribery or Treating, and where it appears by the Report of any Commission of Inquiry into Corrupt Practices at any Election made to Her Majesty and laid before Parliament that certain Persons named by them have been guilty of the Offences of Bribery or Treating, and have not been furnished by them with Certificates of Indemnity, such Report, with the Evidence taken by the Commission, shall be laid before the Attorney General, with a view to his instituting a Prosecution against such Persons if the Evidence should, in his Opinion, be sufficient to support a Prosecution.

Suspension of Writs.

10. When after the Presentation of a Report to Parliament by a Commission of Inquiry into Corrupt Practices at an Election for any County, City, or Borough, that extensive Bribery has prevailed in such Place, the House of Commons resolves that no Writ shall be issued for the Election of a Member or Members for such Place for a Period of Five Years, no Writ shall be issued for an Election for a Member or Members for such Place till the Expiration of *Five* Years from the Date of such Resolution; but this Provision shall not be held in any way to affect the Right of Parliament, either altogether to disfranchise such Place, or to alter, suspend, or take away the Right of voting of all or any of the Electors therein.

Clause A. Persons convicted of Bribery incapacitated during Five Years from sitting in Parliament.

11. Any Person who shall be convicted of Bribery, Treating, or undue Influence at an Election, or against whom Judgment shall have been obtained for any penal Sum by the Corrupt Practices Prevention Acts made recoverable in respect of the Offences of Bribery, Treating, and undue Influence, or either of them, shall, in addition to any other Punishment or Forfeiture, be incapable of being elected or sitting in Parliament during the Five Years next after such Conviction or Judgment.

Clause B. Provision for Payment of Costs of Commissions of Inquiry.

12. Where any Commission shall have been issued under the Provisions of any Act to inquire into the extensive Prevalence of Bribery, Treating, or other Corrupt Practices at any Election of a Member or Members to serve in Parliament for any County, Borough, or Place, and the Commissioners so appointed shall have reported that such Practices have extensively prevailed in such County, Borough, or Place, the Commissioners of Her Majesty's Treasury shall, within Two Months after the making of such Report, certify to the Treasurer of such County, Borough, or Place the total Amount of the Cost of such Commission and Inquiry, and such Treasurer shall, within Two Years after the Receipt of such Certificate, pay to the Commissioners of Her Majesty's Treasury, by Eight equal quarterly Payments, the

total Amount so certified, and such Payments shall be provided for by a Rate, to be made and levied in such County, Borough, or Place, in all respects like any other County or Borough Rate: Provided always, that when such Commission has been issued to inquire concerning any Election in a Division only of any County, such Rate shall be made and levied upon such Division only: Provided also, that in case there shall be no Treasurer of any Borough so reported upon as aforesaid, and no Borough Rate shall be leviable therein, then in such Case such Certificate as aforesaid shall be given to the Treasurer of the County in which such Borough is situate, and the Amount so certified shall be paid by him as aforesaid, and shall be defrayed out of the Monies to be collected for the Relief of the Poor in the several Parishes and Townships within the same Borough, according to the Provisions as to the Proportion of Contributions, and the certifying and paying of such Contributions, which are contained in the Fifty-fifth Section of an Act passed in the Sixth and Seventh Years of the Reign of Her Majesty Queen Victoria, intituled "An "Act to amend the Law for the Registration of Persons entitled to "vote, and to define certain Rights of voting, and to regulate certain "Proceedings in the Election of Members to serve in Parliament for "England and Wales," with reference to the Manner in which the Expenses, in such Section mentioned, are to be defrayed.

Repeal.

Repeal of Acts.

13. There shall be repealed the several Acts of Parliament mentioned in the Schedule hereto to the Extent specified in the Third Column of the said Schedule, but such Repeal shall not affect the Punishment of any Offence or the Recovery of any Penalty or Forfeiture incurred under any of the Provisions hereby repealed.

Continuance of Corrupt Practices Acts.

14. The Corrupt Practices Prevention Acts shall continue in force for a Period of Five Years from the Date of the passing of this Act, and from thenceforth until the End of the then next Session of Parliament.

The

The SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
15 & 16 Vict. c. 57. A.D. 1852.	An Act to provide for more effectual Inquiry into the Existence of Corrupt Practices at Elections for Members to serve in Parliament.	Sections 9 and 10.
17 & 18 Vict. c. 102. A.D. 1854.	An Act to consolidate and amend the Laws relating to Bribery, Treating, and undue Influence at Elections of Members of Parliament.	Sections 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 34.
21 & 22 Vict. c. 87. A.D. 1858.	An Act to continue and amend the Corrupt Practices Prevention Act, 1854.	So much of Section (1) as provides that a full, true, and particular Account of all Payments made for such Conveyance, signed by the Candidate or his Agents, shall be delivered to the Election Auditor with the Names and Addresses of the Persons to whom such Payments have been made, and the Amount of such Account shall be included in the General Account of the Expenses incurred at any Election to be made out and kept by such Election Auditor. And Sections 2, 4.

Corrupt Practices at Elections.

A

BILL

[AS AMENDED IN COMMITTEE]

To amend and continue the Law relating to Corrupt Practices at Elections of Members of Parliament.

(Prepared and brought in by Sir George Grey and Mr. Brisco.)

Ordered, by The House of Commons, *to be Printed,* 19 *March* 1863.

[Bill 68.]

Under 2 oz.

64

LORDS AMENDMENTS

TO THE

CORRUPT PRACTICES AT ELECTIONS BILL.

Note.—*The Page and Line refer to the Bill* (62.) *as printed by the Lords.*

Page 3. Line 3. After ("inserted") insert ("an Abstract of")

Leave out Clauses 10 and 11.

[Bill 136.]

LORDS AMENDMENTS

TO THE

CORRUPT PRACTICES AT ELECTIONS BILL.

Ordered, by The House of Commons, *to be Printed,*
19 *May* 1863.

[Bill 136.]

Under 1 *oz.*

A

BILL

TO

Amend the Law relating to the giving of Security for Costs by Plaintiffs residing out of the Jurisdiction of the Courts.

WHEREAS it is expedient to amend the Law relating to the giving Security for Costs by Plaintiffs suing in the Superior Courts of Law at Westminster and Dublin who reside in Parts of the United Kingdom beyond the Jurisdiction of the Courts in which their Actions are brought: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,) Preamble.

1. This Act may be cited upon all Occasions and for all Purposes as "The Security for Costs Act, 1863." Short Title.

2. Whenever any Plaintiff suing after the *passing of this Act* in any of the Superior Courts of Common Law at Westminster or Dublin shall be resident in any Part of the United Kingdom beyond the Jurisdiction of the Court in which he sues, such Plaintiff may, if he shall so think fit, in lieu and instead of giving Security for Costs, Undertaking may be given instead of Security for Costs.

 give

give an Undertaking under this Act in manner herein-after mentioned to pay all such Costs in the Action brought by him as he may be ordered or adjudged to pay by any Order of any Judge or Order or Judgment of the Court.

Undertaking may be given in Writing or in Court.

3. Such Undertaking may be in Writing in the Form in the Schedule to this Act annexed, and may be signed by the Plaintiff or his Attorney, and filed in the proper Office of the Court, or may be given in open Court by the Plaintiff, his Counsel or his Attorney; and any Undertaking so given shall be enforceable against such Plaintiff in all Parts of the United Kingdom in manner herein-after mentioned.

Judge to give Certificate of Costs.

4. Whenever any Undertaking shall have been so given by or on behalf of any Plaintiff under this Act, and any Costs shall be awarded or adjudged to be paid by the said Plaintiff by any Order or Judgment of the Court, or by any Order of any Judge having Authority in that Behalf, it shall be lawful for the Person to whom such Costs are ordered or adjudged to be paid to obtain from the Court in which the Action has been brought, or from any Judge thereof, under the Seal of the Court or the Hand of such Judge, a Certificate stating that such Undertaking has been given by the Plaintiff under this Act in an Action brought by him in such Court, and that Costs have been awarded and adjudged to be paid by the said Plaintiff, and stating the Amount of such Costs, and the Person to whom they are to be paid; and the Person to whom such Costs are awarded to be paid shall be entitled, upon producing such Certificate, in the Case of a Certificate of an English Court or Judge to any Judge of One of the Superior Courts of Common Law at Dublin, or of the Court of Session in Scotland, to obtain, immediately and without Notice to the Defendant, an Order that such Costs shall be forthwith paid; and in the Case of a Certificate of an Irish Court or Judge, he may in like Manner, upon producing such Certificate to a Judge of One of the Superior Courts of Common Law at Westminster, or of the Court of Session in Scotland, obtain an Order that such Costs shall be paid forthwith.

Order to have Effect of Judgment, or enforced by Process of Contempt.

5. Every Order so made by any Judge in pursuance of such Certificate shall be entitled in the Court of which the Judge making same shall be a Judge, and shall be deemed and taken to be an Order of such Court, and may be enforced by all such Process and Execution as might have been used for the Recovery of such Costs if the same had been originally ordered or adjudged to be paid by the Order or Judgment of such Court, and shall have for all Purposes of such Process and Execution, and of charging any Land or other Property, the Force and Effect of a Judgment of such Court,

Court, and every such Order may also, at the Desire of the Party to whom the Costs are awarded to be paid, be enforced by Process of Attachment for Contempt according to the Course and Practice of the Court as if the Undertaking to pay such Costs had been originally given in such Court.

After Undertaking, no Order for Security to be made.

6. When any Plaintiff residing within the United Kingdom shall have given, by himself, or his Counsel or his Attorney, the Undertaking to pay herein-before mentioned, no Order shall be made requiring such Plaintiff to give Security for Costs or staying his Proceedings until such Security for Costs shall be given, on the Ground that he is resident beyond the Jurisdiction of the Court.

Act not to interfere with General Law as to Security for Costs.

7. Nothing herein contained shall in any Manner affect or interfere with the Right of any Plaintiff or Defendant to require or obtain Security for Costs from any Defendant or Plaintiff residing beyond the Limits of the United Kingdom in the same Manner as if this Act had not been passed, or be deemed in any Manner to alter, vary, or affect the Law or Procedure of any Court as to the requiring Security for Costs, except so far as herein is expressly made and declared.

SCHEDULE.

In the Common Pleas, England (*or as the Case may be*).

Between *A.B.*, Plaintiff, and *C.D.*, Defendant.

In accordance with the Provisions of the Security for Costs Act of 1863, the Plaintiff hereby undertakes to pay all such Costs as he may be directed or adjudged to pay by any Order of a Judge or Order or Judgment of the Court in this Cause.

A.B., Plaintiff.

or

Henry Jones, Attorney for Plaintiff.

Costs Security.

A

BILL

To amend the Law relating to the giving of Security for Costs by Plaintiffs residing out of the Jurisdiction of the Courts.

(*Prepared and brought in by Mr. Butt and Mr. Murray*)

Ordered, by The House of Commons, *to be Printed,* 14 *May* 1863.

[Bill 126.]

Under 1 *oz.*

Court of Session (Scotland).

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A

B I L L

TO

Consolidate and amend the Laws relating to Procedure in the Court of Session in Scotland, and in Appeals to the House of Lords.

Preamble.

WHEREAS the Practice and Mode of Procedure in the Court of Session in Scotland may be rendered more simple, certain, and expeditious by the Repeal of the Statutory Regulations which are now wholly or partially in force, and the Enactment of a new Code of Regulations adapted to the existing Constitution of the Court: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Repeal of existing Enactments.

1. The several Statutes and Parts of Statutes mentioned in the following Table shall be and are hereby repealed to the Extent therein specified, except as to anything done or to be done in pursuance thereof before this Act shall take effect: Provided always, that such Repeal shall not revive any Jurisdiction, Right of Action, Process of Review or other Procedure, or any personal Privilege which has been abolished or abrogated by any of the said Statutes; viz.,

48 Geo. 3. c. 51. intituled "An Act concerning the Administration "of Justice in Scotland and concerning Appeals to the House "of Lords." The whole Act.

50 Geo. 3. c. 112. intituled "An Act for abridging the Form of "extracting the Decrees of the Court of Session in Scotland, "and for the Regulation of certain Parts of the Proceedings of "that Court." The 27th, 43d, and intervening Sections only.

53 Geo. 3. c. 64. intituled "An Act for the better Regulation of "the Court of Session in Scotland." The whole Act.

55 Geo. 3. c. 42. intituled "An Act to facilitate the Administration "of Justice in that Part of the United Kingdom called Scotland "by the extending Trial by Jury to Civil Causes." The whole Act.

59 Geo. 3. c. 35. intituled "An Act to amend an Act passed in the "55th Year of the Reign of His present Majesty, entitled 'An "'Act to facilitate the Administration of Justice in that Part "'of the United Kingdom called Scotland by the extending "'Trial by Jury to Civil Causes.'" The whole Act.

59 Geo. 3. c. 45. intituled "An Act to explain and amend certain "Acts relative to the Court of Session in Scotland." The whole Act.

1 & 2 Geo. 4. c. 38. intituled "An Act for establishing Regulations "respecting certain Parts of the Proceedings in the Court of "Session and in the Court of Commissioners for Teinds, and "respecting the Duties, Qualifications, and Emoluments of "certain Clerks and other Officers of the said Courts." The 1st, 5th, and intervening Sections only.

6 Geo. 4. c. 120. intituled "An Act for the better regulating of the "Forms of Process in the Courts of Law in Scotland." The whole Act.

11 Geo. 4. and 1 Will. 4. c. 69. intituled "An Act for uniting the "Benefits of Jury Trial in Civil Causes with the ordinary "Jurisdiction of the Court of Session, and for making certain "other Alterations and Reductions in the Judicial Establish-"ments of Scotland." The whole Act, except in so far as any Jurisdiction in relation to Jury, Maritime and Consistorial Causes, is thereby conferred on the Court of Session, Bill Chamber and Sheriff Courts in Scotland; excepting also Sections 18, 19, and 20.

2 Will. 4. c. 5. intituled "An Act to provide for carrying on the "Business of the Court of Session in Scotland when interrupted "by the Death or necessary Absence of any of the Judges "thereof." The whole Act.

6 & 7 Will. 4. c. 41. intituled "An Act to abolish the Commissary "Court of Edinburgh, and to regulate the Mode of taking "Proofs in Consistorial Causes in Scotland." The whole Act.

7 Will. 4. c. 14. intituled "An Act to explain and amend Two Acts "relating to Trial by Jury in Scotland." The whole Act.

1 & 2 Vict. c. 86. intituled "An Act to diminish Delay and Expense "in Advocations and Suspensions in the Court of Session in "Scotland." The whole Act.

13 & 14 Vict. c. 36. intituled "An Act to facilitate Procedure in "the Court of Session in Scotland." The whole Act.

17 & 18 Vict. c. 59. intituled "An Act to allow Verdicts on Trials "by Jury in Civil Causes in Scotland to be returned although "the Jury may not be unanimous." The whole Act.

20 & 21 Vict. c. 56. intituled "An Act to regulate the Distribution "of Business in the Court of Session in Scotland." The whole Act.

22 & 23 Vict. c. 7. intituled "An Act to amend an Act of the "Seventeenth and Eighteenth Years of Her Majesty, for allowing "Verdicts on Trials by Jury in Civil Causes in Scotland to be "received although the Jury may not be unanimous." The whole Act.

PART I.

Procedure in Actions to be instituted by Summons.

With respect to all Actions which, according to the existing Practice, might have been instituted by a simple Petitory Summons, without declaratory or other Conclusions than the usual Conclusion for Payment of Money with Interest and Expenses: Be it enacted as follows:

New Form of Summons in Petitory Actions.

2. All such Actions hereafter brought in the Court of Session shall be commenced by Summons in the Form contained in the Schedule (A.) to this Act annexed, summoning the Defender to appear and put in Defences on the ordinary Induciæ (as defined in Part IV. of this Act); to which Summons a Warrant of Arrestment may be added. It shall not be necessary to mention any Form or Cause of Action in any Summons issued under this Act. The Summons may be either in Writing or printed, or partly in Writing and partly printed.

Endorsement of the Division of the Court, and Agent's Address.

3. Every such Summons, and every Service Copy thereof, shall contain prefixed thereto an Entry of the Division of the Court and of the Lord Ordinary before which the intended Action is to be instituted; and shall contain, endorsed thereon, the Name and Place of Abode of the Pursuer's Agent in the Court of Session; and in case no Agent shall be employed by the Pursuer, then, in addition to the Name and Place of Abode of the Agent signing the Writ, there shall be endorsed thereon

thereon a Memorandum expressing that the Action is to be instituted by the Pursuer in Person, mentioning the City, Town, or Parish, and also the Name of the Street and Number of the House of such Pursuer's Residence, if such there be.

Endorsement of the Amount claimed upon Summons.

4. Upon the Summons and Service Copy thereof the Amount of the Sum of Money claimed shall be stated; and the Amount of Interest claimed, if any, shall be stated separately; and also the Amount of what the Pursuer's Agent claims for the Expenses of the Summons and Execution thereof, and for Attendance to receive Payment of such Sum or Sums and Expenses; and it shall be further stated that upon Payment thereof within Four Days to the Pursuer or his Agent farther Proceedings shall be stayed; which Endorsement shall be written or printed in the following Form; or to the like Effect:

'THE Pursuer claims Pounds for Debt, with
' Pounds of Interest thereon [*or* Pounds for Damages,
' *as the Case may be*], and Pounds for Expenses; and if the
' Amount thereof be paid to the Pursuer or to his Agent within Four
' Days from the Service hereof farther Proceedings will be stayed.'

But the Defender shall be at liberty, notwithstanding such Payment, to have the Account of Expenses taxed; and if more than One Sixth shall be disallowed, the Pursuer's Agent shall pay the Expenses of Taxation.

Amendment of Error in the Endorsement.

5. If the Pursuer or his Agent shall omit to insert or endorse on any Summons or Copy thereof any of the Matters required by this Act to be inserted therein or endorsed thereon, such Summons or Copy thereof shall not on that Account be held void, but it may be either dismissed as irregular, or amended, upon Application to the Lord Ordinary; and such Amendment may be made upon any Application to dismiss the Action upon such Terms as the Lord Ordinary may think fit.

Pursuer to lodge the Summons for Enrolment.

6. Unless Payment shall previously have been made, the Pursuer shall, Eight Days before the Expiration of the Induciæ, lodge the Summons with the Clerk of the Process or his Assistant, for Enrolment, and such Clerk shall forthwith cause the same to be enrolled and published in the Daily Roll of Causes depending in the Court of Session (in manner specified in Part XI. of this Act); and no farther or other Procedure shall be requisite for bringing the Action into Court.

Condescendence or special Endorsement to be lodged with the Summons.

7. The Pursuer shall at the same Time lodge with the said Clerk a Condescendence in the Form herein-after provided, unless the Defender, or Defenders where there are more than One, shall have previously intimated to the Pursuer his or their Consent to dispense with

with formal Pleadings, in which Case the Pursuer may, if he think proper, instead of lodging a separate Condescendence along with the Summons, lodge the Summons with a special Endorsement written thereon (Schedule B.), which in that Case shall be taken to be equivalent to a Condescendence; and in all Cases where a Summons shall be specially endorsed in virtue of the Defender's Consent as aforesaid, Issue shall be tendered, after Appearance has been entered for the Defender, by writing at the End of such Endorsement the Words "The Defender joins Issue;" and such Issue shall be signed by the Defender's Counsel, and no other written Pleadings shall be allowed in the Cause.

Issue may be joined upon special Endorsement.

8. Subject to the Provisions contained in Part VI. of this Act relative to Protestation, the Clerk shall be bound to receive any Summons, with the relative Condescendence or special Endorsement, at any Time within Three Months after the Date thereof, and shall forthwith cause the same to be enrolled and published as aforesaid; provided that where the Summons is not lodged for Enrolment in due Time, Defences shall not be returnable until the Eighth Day after Publication of such Enrolment in the Rolls of Court.

Summons may be received within Three Months on certain Conditions.

9. As soon as the Summons has been lodged for Enrolment, Appearance may be entered for the Defender.

Appearance of the Defender.

10. The Mode of Appearance in any Action or Proceeding in the Court of Session shall be by delivering to the Clerk of the Process a Memorandum in the following Form or to the like Effect:

'APPEARANCE for the Defender in Causa *A.B.* against *C.D.* [*or* against *C.D.* and others].

'The Defender *C.D.* appears in Person [*or* *E.F.*, Agent for the Defender *C.D.*, appears for him.]

'Entered the Day of 18 .'

And such Apearance shall also specify the Residence or Place of Business of the Defender, or of his Agent where he appears by an Agent.

General Form of Appearance.

11. Where the Summons is specially endorsed in the Form hereinbefore provided in virtue of the Defender's Consent, then, if Appearance shall not be entered for the Defender before the Expiration of the Induciæ, or before the Elapse of Eight Days after Publication of the first Enrolment, as the Case may be, it shall be lawful for the Pursuer forthwith to enrol the Cause in the Lord Ordinary's Motion Roll, and to move for and obtain Decree against such Defender for any Sum not exceeding the Sum or Sums endorsed on the Summons, together with a Sum for Expenses, to be fixed by Act of Sederunt, unless the Pursuer shall claim more than such fixed Sum, in which

Procedure where the Summons is specially endorsed, and the Defender does not appear.

Case the Account of Expenses shall be taxed in the ordinary Way, and the Decree so obtained shall be final after Extract, and shall not be liable to be opened up as a Decree in Absence by Suspension or Reduction: Provided always, that if Issue is tendered at the Bar the Lord Ordinary shall allow an Appearance to be lodged and a Tender of Issue to be endorsed on the Summons, as herein-before provided, but the Expenses of entering Appearance shall not be afterwards allowed as a Charge against the Pursuer.

Procedure where Summons is not specially endorsed, and Defender does not appear.

12. Where the Summons has not been specially endorsed in the Form herein-before provided, then, unless the Defender shall lodge an Appearance and Defences before the the Expiration of the Induciæ (or before the Elapse of Eight Days after Publication of the first Enrolment, as the Case may be), it shall be lawful for the Pursuer forthwith to enrol the Cause in the Lord Ordinary's Motion Roll, and to move for and obtain Decree against such Defender for any Sum not exceeding the Sum or Sums endorsed on the Summons, with the Expenses of Process, as the same shall be taxed by the Auditor of Court: Provided always, that if Defences are tendered at the Bar the Lord Ordinary may allow such Defences, together with an Appearance for the Defender, to be received; but the Expense of such Defences and Appearance shall not be afterwards allowed as a Charge against the Pursuer.

Different Causes of Action may be conjoined.

13. Different Causes of Action relating to the same Subject Matter, and concerning the same Parties, may be joined in the same Action, provided they are of such a Nature as to admit of being determined in an Action instituted by Summons under this Act; but the Lord Ordinary or the Court shall have Power to prevent the Trial of different Causes of Action together, if such Trial would be inexpedient, and may in such Cases order separate Records to be made up and separate Trials to be had.

Facts may, of Consent, be stated in a special Issue without Pleadings.

14. Where the Parties to an Action are agreed as to the Question or Questions of Fact to be decided between them, they may, at any Time after the Execution of the Summons, and before Judgment, by Consent, and Order of the Lord Ordinary or the Court (which Order the Lord Ordinary at the Court shall have Power to make, upon being satisfied that the Parties have an Interest in the Decision of such Question or Questions, and that the same is or are fit to be tried), proceed to the Trial of any Question or Questions of Fact, without formal Pleadings; and such Question or Questions may be stated for Trial in the Form of a Special Issue, and such Issue shall be held to be the Record in the Action, and may be enrolled for Trial, and tried accordingly, in the same Manner as an Issue joined in

in any ordinary Action; and the Proceedings in such Action and Issue shall be under and subject to the ordinary Control and Jurisdiction of the Court, as in other Actions.

Amount of Debt or Damages in such Cases.

15. The Parties may, if they think fit, enter into an Agreement, which shall be embodied in a Minute, that on the Determination in the Affirmative or Negative of any such Special Issue a Sum of Money fixed by the Parties, or to be ascertained by the Jury upon a Question inserted in the Issue for that Purpose, shall be paid by One of such Parties to the other of them, either with or without the Expenses of the Action.

Application of Verdict, and Relief against erroneous Verdict in such Cases.

16. Upon the Finding of the Jury on any such Issue the Verdict of the Jury may be applied and Decree pronounced for such Sum as shall be so agreed or ascertained as aforesaid, with or without Expenses, as the Case may be: Provided always, that all the Provisions herein-after contained relative to Proceedings for setting aside Verdicts, and to the Application of Special Verdicts and Special Cases settled at Trial, and to the Right of Appeal to the House of Lords, shall be applicable to Actions tried upon Special Issues.

Judgment upon Special Issue.

17. The Judgment upon a Special Issue may be extracted within the usual Time; and the Proceedings shall be held to have the Effect of a res judicata upon the Substance of the Question of Right so put in Issue.

Questions of Law may be stated in a Special Case without Pleadings.

18. The Parties may, at any Time after the Execution of the Summons, and before Judgment, by Consent, and Order of the Lord Ordinary or the Court, state any Question or Questions of Law in a Special Case for the Opinion of the Court, which shall be held to be the Record in the Action.

Assessment of Debt or Damages in such Cases.

19. The Parties may, if they think fit, enter into an Agreement, which shall be embodied in a Minute, that upon the Determination in the Affirmative or Negative of the Question or Questions of Law raised by such Special Case, a Sum of Money, fixed by the Parties, or to be ascertained by the Court, or in such Manner as the Court may direct, shall be paid by One of such Parties to the other of them, either with or without the Expenses of the Action; and the Lord Ordinary or the Court shall pronounce Judgment for such Sum as shall be so ascertained or agreed, with or without Expenses, as the Case may be, which Judgment shall be subject to Review by Reclaiming Note and Appeal in the same Manner as a Judgment pronounced in any ordinary Action.

Condescendence to state different Causes of

20. When the Parties shall not agree to dispense with Pleadings, as herein-before provided, the Pursuer shall within the Time herein-before specified

Action in distinct Articles.

specified lodge in Process a Condescendence of his Cause or Causes of Action, stating the different Causes of Action, when there are more than One, in separate Articles distinguished by Numerals.

Each Article to be complete in itself.

21. Each Article of a Condescendence shall contain One Cause of Action, and no more, and shall be so framed as to be complete in itself, without Reference to any other Article, and shall not be divided into Paragraphs.

Facts how to be averred in the Pleadings of Parties.

22. It shall not be necessary in a Condescendence or any subsequent Pleading to state Matter of Law, or that which is merely Matter of Evidence, that is to say, such Circumstances or subordinate Facts as merely tend to prove the Truth of the Fact or Facts constituting a Cause of Action or Ground of Defence; and the Fact or Facts constituting a Cause of Action or Defence, as distinguished from the subordinate Facts and Circumstances by which they are to be proved, shall be stated, with sufficient Certainty, in the Terms in which the Pursuer desires that the same shall be affirmed, and in which the same may properly be affirmed by a Verdict or Judgment.

Pleadings not to contain any explanatory Narrative.

23. The Parties shall not in the Condescendence or any subsequent Pleading state any explanatory Narrative introductory to the Averment of a Cause of Action or Defence. In particular, in Actions upon Contract or for Breach of Contract, the Parties shall not set forth any Facts antecedent to the alleged Contract, as, for Example, the Views or Motives of the Parties, or the Communings between them prior to the Contract; but the Contract itself shall be stated either by reference to the Deed, Correspondence, or other Writing in which it is contained, or, where the Contract is not in Writing, by narrating the Substance of the Agreement in the Terms in which it is desired that the same may be affirmed by a Verdict or Judgment of the Court.

Averment in Actions on Contract.

24. Where the Contract alleged in a Condescendence or any subsequent Pleading is in Writing, whether consisting of One or more Instruments or of Correspondence, and such Instruments or Correspondence are referred to in the Condescendence (which may be done in any Terms sufficient to identify the Writings referred to), the Statement of the Contract in the Pleading shall be read by the Court with reference to the legal Import and Construction of such Writings, and so as to be consistent therewith in all respects, notwithstanding any Variance between the Statement and the Writings, unless it shall appear that the Contract as constituted by such Writings was in fact subsequently varied, in which Case Effect shall be given to such Variance; and it shall not be necessary for the opposite Party to deny or except to the Mode of stating any such Contract in Writing,

Writing, in order to obtain the Benefit of a Judgment upon the Contract, according to the true Construction thereof.

25. In Actions of Damages for Assault, it shall be sufficient for the Pursuer to state that he was assaulted by the Defender, without specifying the Mode in which the Assault was committed, or the Injuries which were inflicted. Averment in Actions for personal Injury.

26. In Actions of Damages for Injury to Property, the Pursuer shall state the Nature of the Injury complained of, but need not state the Particulars of the Damage done. Averment in Actions for Injury to Property.

27. In Actions for Defamation, whether written or verbal, and whether privileged or not, the Pursuer shall be at liberty to aver that the Words or Matter complained of were used in a defamatory Sense, specifying such defamatory Sense, without any prefatory Averment to show how such Words or Matter were used in that Sense, and such Averment shall be put in Issue by the Denial of the alleged Libel or Slander; and where the Words or Matter set forth, with or without the alleged Meaning, show a Cause of Action, the Condescendence shall be sufficient. Averment in Actions for Defamation.

28. In all such Actions as aforesaid it shall be sufficient for the Pursuer to allege that the Defamation was false and calumnious, and it shall not be necessary for him to allege that it was malicious or without probable Cause; but if it shall appear at the Trial that the Defamation is privileged, the Pursuer shall not be entitled to a Verdict unless he shall prove Malice according to Law, and he may adduce Evidence of Malice in Replication; and if the Judge at the Trial shall rule that the Defamation is privileged, he shall, unless the Pursuer has adduced, or upon such Ruling shall adduce, some Evidence of Malice, direct the Jury to find for the Defender Not necessary to aver Malice and Want of probable Cause.

29. In all such Actions the Defender may justify the whole or Part of the Defamation alleged; and if the Jury shall find that Part of the Defamation has been justified and Part not, they shall find for the Pursuer, and assess Damages only in respect of so much thereof as has not been justified. Justifications in Actions for Defamations.

30. If in any Action other than Actions for Defamation it shall appear at the Trial that the Act complained of was committed or done under such Circumstances that Evidence of Malice or Want of probable Cause, or both, is by Law necessary to entitle the Pursuer to a Verdict, the Pursuer shall be at liberty to adduce such Evidence, either as Part of his original Case or in Replication, although Defence of Privilege may be raised at the Trial, and need not be anticipated by the Pursuer.

although he has not on Record averred either Malice or Want of probable Cause, but the Record or Issue shall be amended so that it may cover such necessary Evidence.

Averment of Time, Place, and Quantity, &c.

31. Averments of Time, Place, Quantity, Quality, and Value shall be considered as Notice merely, and need not be proved, except when essential to the Cause of Action; and, subject to the same Exception, a Variance between the Averments and the Evidence with respect to such Matters shall be considered immaterial.

Articles of the Condescendence to be separately answered as the Defences.

32. Upon the Expiration of the Inducіæ, or on the Elapse of Eight Days after the Enrolment of the Action and Publication thereof, as herein-before provided, the Defender shall lodge Defences, in which he shall answer every Article of the Condescendence to which he has an Answer either in Law or in Fact; and it shall not be lawful to return an Answer or Answers to Two or more Articles jointly, but each Article shall be separately answered.

Objection to Relevancy may be stated to any Article, but not generally.

33. If the Defender shall object to the Relevancy or Sufficiency in Law of any Article of the Condescendence as a Cause of Action, he shall do so in his Answer thereto in the following or similar Terms:

> "The Defender says that the (First) Article of the Condescendence is bad in Law."

And such Answer shall entitle the Defender to insist in all Objections in Law to such Article as a Ground of Action, and it shall not be lawful to object generally to the Relevancy of the whole Condescendence where it consists of more than One Article.

Denial must be unqualified, and may apply either to the whole or a specified Part of the Article.

34. Where the Defender intends to deny the Truth in Fact of any Article of the Condescendence, or of any Averment in such Article, he shall do so in his Answer thereto by absolute and unqualified Words of Denial applicable to such Article or Averment, without any explanatory or counter Statement; and when any particular Averments not constituting the whole material Averments in the Article are denied, the Averments so denied shall be specified in the Words used in the Article in which they occur.

Express Admission no longer required.

35. The Defender shall not in his Defences answer in Words any Article of the Condescendence, or any particular Averment which he admits to be true in Fact, but every Article and Averment not expressly denied in the Defences shall be held as admitted to be true in Fact, but always under reference to any Contract or Writing therein referred to, as herein-before provided.

36. With

36. With respect to any Article or Averment in any Article which the Defender shall not deny in Fact, he shall be at liberty, if he has any proper counter Case, to set forth in his Answer to such Article the Facts on which he relies as affording an Answer in Law to such Article or Averment, as a Cause of Action against him, or as avoiding the legal Consequences thereof; and any such Statement of a counter Case shall be called a Defence, and the Defender shall be at liberty to plead as many distinct Defences as he may think proper in his Answer to each Article.

Counter Case may be stated as a special Defence to any Article admitted to be true in Fact, and to be called a "Defence."

37. In every such special Defence the Defender shall, without any Detail of Circumstances, or Repetition of the Pursuer's Statement, state some Matter or Matters of Fact, with the Conclusion deduced therefrom which he maintains as affording a sufficient Answer in Law to the whole or a material Part of the Article of the Condescendence to which it refers, or as sufficient to avoid the legal Consequences thereof; and such Statement shall be so expressed as to show the Effect to which it is pleaded, and shall be made in the Terms in which the Defender desires that the same shall be affirmed, and in which it may properly be affirmed by a Verdict or Judgment.

Facts how to be averred in Defences.

38. Within Eight Days after Defences have been lodged the Pursuer shall, if they contain any special Defence or Averment which he desires to answer, but not otherwise, be at liberty to lodge a Replication, in which he shall answer every such Averment to which he has any Answer, either by a Denial or by a counter Statement, in like Manner and subject to the same Provisions as are by this Act made applicable to the Defender's Answers to the Condescendence. And the Pursuer may object to any Averment in the following or similar Terms:

"The Pursuer says that the (First) Defence is bad in Law."

Which shall be taken to mean that the Defence, if true, is not sufficient as an Answer in Law to the Article to which it applies, and is not sufficient to prevent the Pursuer from recovering in respect of that Article.

Pursuer may lodge Replication to special Defence, in which he may deny or aver specially, or may object to the Relevancy of such Defence.

39. The Pursuer shall not in his Replication answer in Words any Defence or any particular Averment which he admits to be true in Fact, but every such Defence and every Averment not expressly denied in the Replication, shall be held to be admitted to be true in Fact.

Replication not to contain any express Admissions.

40. Should the Pursuer have lodged a Replication containing new Averments which the Defender shall desire to answer, but not otherwise, the Defender shall be at liberty, within Eight Days, to lodge a Rejoinder,

Defender may lodge Rejoinder to special Averment in Replication.

a Rejoinder, in which he shall answer in manner herein-before provided with reference to the Defender's Answers to the Condescendence any such new Averments to which he has an Answer, and Objection in Law may be taken to any such new Averment in the Form herein-before provided or a similar Form.

Pleadings to be lodged without Order of Court at the proper Time, but may be received afterwards by Consent or Order.

41. The Condescendence, Defences, Replication, and Rejoinder shall be prepared and lodged in the Manner and within the Periods herein-before provided, without the Necessity of any Order of Court for that Purpose; and no Pleading shall be received after the Expiry of the Period by this Act provided for lodging the same, except of Consent of the opposite Party, or upon an Order of Court indorsed on the Pleading itself; and the Expense of any Pleading received upon such Order shall not afterwards be allowed as a Charge against the opposite Party.

Pleadings not to contain Repetition of previous Statements.

42. Neither Party shall be at liberty to revise any Pleading, and neither Party shall be allowed in any Pleading to repeat any Answer made by him in any previous Pleading, but every Pleading shall consist of Answers which are not contained in any previous Pleading.

Pleading, when to be held as concluded.

43. When the Defences contain no substantive Averments in answer to the Condescendence, the Record shall be considered as completed so soon as the Defences are lodged; and when the Replication contains no new Averments in answer to any substantive Averments that may be contained in the Defences, the Record shall be considered as completed so soon as the Replication is lodged, and if not otherwise it shall be so considered so soon as the Rejoinder is lodged. And should any Pleading (other than Defences) allowed by this Act not be lodged within the specified Period, or subsequently of Consent of the opposite Party, the opposite Party may, after the Expiry of Four Days from the Elapse of the Period by this Act allowed for lodging such Pleading, enrol the Case before the Lord Ordinary, and move that the Record in the Cause shall be held as completed, and the Lord Ordinary shall pronounce an Order declaring the Record closed, unless the Pleading omitted to be lodged shall be produced at the Bar, and he shall think fit to order it to be received.

Lord Ordinary empowered to amend Pleadings before closing the Record.

44. So soon as the Record is complete, the Papers shall be transmitted to the Lord Ordinary with a view to closing, who shall consider the Pleadings, and if necessary shall direct any of them to be withdrawn, and new ones to be substituted, or allow or direct such Amendments to be made on any of the Pleadings by marginal Addition, Deletion, or otherwise, as he shall judge necessary or proper, with

with a view to raise in convenient and proper Form the whole Matters of Fact and Law which are truly in controversy between the Parties.

Record to be closed by Interlocutor.

45. After such Amendments or Alterations on the Pleadings as the Lord Ordinary may allow, or if no such Amendment is allowed, then as soon as the Lord Ordinary shall have had an Opportunity of considering the Pleadings, he shall pronounce an Interlocutor declaring the Record closed.

Arrangement of Pleadings in the Record.

46. The Record shall be printed by the Pursuer, who shall furnish the Defender or Defenders with such Number of Copies as they shall require, and the Expense of Printing shall be equally divided. In the printed Record the Pleadings shall be so arranged that the Defences to the First Article of the Condescendence, and all subsequent Pleadings having relation thereto, shall be printed in immediate Sequence to that Article; and the Replication and Rejoinder, if any, shall be printed in immediate Sequence to the Defence to which they respectively relate; and the other Articles of the Condescendence, if any, with the relative Defences, shall be added in their Order.

Disposal of Questions of Law and Conduct of Argument in the Debate Roll.

47. Where no Issue of Fact is raised upon the Record, either Party may immediately enrol the Cause in the Debate Roll of the Lord Ordinary, who shall thereupon determine the Questions of Law raised upon Record in manner herein-before provided: And the Judges in the Outer House are hereby authorized and empowered to proceed with the Hearing of Debates continuously, and as nearly as may be in the Order in which the Cases stand in the Roll; provided that in case the Counsel for the Party taking the Lead in the Debate shall be actually engaged at other Bars, the Lord Ordinary may require Counsel for the other Party to open, and the Junior Counsel on either Side shall in all Cases reply in the Absence of Senior Counsel; and, unless in exceptional Circumstances, Debates shall not be postponed on account of the Absence of Counsel, but the Lord Ordinary shall either give Judgment by Default or cancel the Enrolment; provided also, that as by this Enactment the Debates in the Outer and Inner Houses of the Court are put upon the same Footing, the Expenses in both Cases shall be taxed upon the Principle and according to the Rules at present applicable to the Taxation of the Expenses of Inner House Debates.

Judgment on Questions of Law, and Provision as to Extract of Decrees.

48. The Lord Ordinary shall in his Interlocutor disposing of a Cause upon Questions of Law sustain or repel the Objections or Objection to the Pleadings of the Parties, and shall either assoilzie the Defender or dismiss the Action, or give Judgment for the Pursuer, to such

such Extent as shall be warranted by the Findings: And every final Judgment for the Pursuer of any Summons under this Act shall contain a Decree for a Sum or Sums of Money not exceeding the Amount claimed and Expenses, which Decree may be extracted in the same Manner as a Decree in Terms of the Conclusions of a Summons in the present Form.

Objections may be obviated by Amendment of the Pleading.

49. Where it shall appear to the Lord Ordinary or the Court at any Hearing upon Questions of Law that the Objections thereby taken to the Pleadings of the opposite Party are such as may be obviated by an Amendment of the Pleadings, such Amendment as may be necessary shall be allowed, upon Payment of such Costs, not exceeding the Costs of the Discussion, as the Lord Ordinary or the Court may think fit to award; and all Averments of res noviter veniens ad notitiam, or emerging since the Commencement of the Action, may be made in the Form of an Amendment of the Record, the Costs of any such Amendment being in the Discretion of the Court.

Res noviter may be pleaded by way of Amendment.

Lord Ordinary to determine whether Trial to precede Hearing on the Law or otherwise.

50. Where Issues of Fact as well as Questions of Law are raised upon the Record, the Lord Ordinary may, upon the Motion of either Party, within Eight Days after the Date of the Interlocutor closing the Record determine that such Questions of Law shall be disposed of before sending the Cause to Trial, and his Decision shall be final; and if no such Motion be made within the Time hereby limited, or if such Motion shall be refused, the whole Cause shall be considered as appropriated to Trial by Jury, unless the Parties shall consent to the Disposal of the Issues of Fact raised upon the Record in One of the Modes specified in Part IV. of this Act.

Disposal of Causes heard on Questions of Law before Trial.

51. Where in virtue of the Determination of the Lord Ordinary any Cause involving Questions both of Fact and Law shall be heard on such Questions of Law before Trial, the Lord Ordinary shall either sustain or repel the Objections in Law, or may allow an Amendment of the Pleadings, as herein-before provided; and if upon Effect being given to such Findings no Issue of Fact shall remain, the Lord Ordinary shall at the same Time give Judgment for the Pursuer or the Defender according to the Nature of such Findings; but if any Issue or Issues of Fact remain to be disposed of no Decerniture shall be pronounced, and the Parties shall be at liberty to proceed to Trial by Jury, or in One of the Modes specified in Part IV. of this Act.

Disposal of Questions of Law remaining after a Trial.

52. Where the Questions of Law arising upon the Record have not been disposed of before Trial, the Parties shall be entitled to be heard upon such Questions of Law after Trial, along with or as

counter

counter to any Motion for the Application of the Verdict of the Jury; or such Questions of Law may be argued along with any Questions of Law reserved at the Trial for the Consideration of the Court, or arising upon a Special Verdict or Case; and where any Cause has been tried at the Inner House Sittings or on Circuit, or has been removed to the Inner House after Trial for any Purpose, all Questions of Law remaining undisposed of shall be disposed of by the Inner House in the first instance, and it shall not be lawful to remit the Cause to the Lord Ordinary for the Disposal thereof.

Averment or Denial may be withdrawn at any Time.

53. Either Party may at any Time lodge a Minute in Process withdrawing any Averment or Denial of any Averment; and where in consequence of such Withdrawal no Issue of Fact shall remain for Disposal, the Case may be enrolled before the Lord Ordinary, and shall be disposed of as if no Issue of Fact had been raised upon the Record; provided that any Expense incurred by the opposite Party in consequence of any such Averment or Denial as aforesaid shall be taken into consideration in the ultimate Disposal of the Cause.

PART II.

Jury Procedure.

And with respect to the Trial of Causes instituted by Summons, and of such other Actions as may in virtue of the subsequent Provisions of this Act be appointed to be tried by Jury, be it enacted as follows:

Regulations as to Notice of Motions to fix Trial.

54. Within Eight Days after the Record is closed, or within such other Time as the Court may hereafter appoint by Act of Sederunt, the Pursuer may intimate to the Defender or to his Agent his Intention to move that the Cause should be tried by the Division in which it depends, either at the Sittings of such Division, or on Circuit; and if no such Information be given by the Pursuer within the said Period, the Defender shall be at liberty to make a similar Intimation within Eight Days thereafter; and if no such Intimation be given by either Party, or if such Intimation be not insisted in by moving in the Division of the Court in Terms thereof within Forty-eight Hours after the Expiry of the Period allowed for Intimation, the Cause shall be tried before the Lord Ordinary, unless the Parties shall consent to some other Arrangement; and all Causes tried on Circuit shall be considered as having been tried in the Inner House.

Disposal of such Motions by the Court.

55. Motions for the Trial of any Cause at the Sittings or on Circuit, when made within the Time herein-before appointed, shall be granted de plano, unless some sufficient Cause for refusing the same

shall be shown by the opposite Party; and such Motions, when made of Consent, shall be granted as of course; and the said Division, in case of granting any such Motion, shall appoint the Trial to take place either at the next Sittings or next Circuit, or at such other Time as the said Division, having regard to the State of the Business of the Court and Convenience of the Parties, shall think proper to direct.

Trial of Causes before the Lord Ordinaries.

56. Any Case falling to be tried before the Lord Ordinary may immediately be enrolled in his Lordship's Roll of Jury Trials, and thereafter, on the Motion of either Party, the Lord Ordinary shall appoint a Diet for such Trial, being at a suitable Time during the then current Session, or at a Sittings to be held by such Lord Ordinary immediately after the Termination of such Session, or during the Christmas Recess, which Sittings the Lords Ordinaries are hereby required to hold, if there be any Cases remaining untried at the End of the Session.

Postponement of Trial.

57. It shall be lawful for a Lord Ordinary, or for either of the Divisions of the Court, to postpone any Trial appointed to take place before such Lord Ordinary or Division respectively, for any just Cause, and at the same Time to award to the opposite Party any Expense which he may have properly incurred in preparing for the Trial.

Regulation as to Judges who shall preside at Trials.

58. All Causes appointed to be tried at the Inner House Sittings may be tried by One or other of the Judges of the Division to which the Cause is appropriated, or by any other Judge acting at the Request of the President of the Division. Causes appointed to be tried on Circuit may be tried by either of the Judges of Justiciary officiating at such Circuit, or by any Judge of the Court of Session acting at their or his Request; and Causes appointed to be tried before the Lord Ordinary may be tried either by himself or by another Judge acting at his Request.

Citation of Witnesses and Recovery of Documents.

59. A Copy of the Interlocutor fixing the Trial, certified by the Clerk to the Process or by his Assistant, shall be a sufficient Warrant to any Messenger-at-Arms to cite Witnesses and Havers to the said Trial, either for the Pursuer or the Defender; and the Lord Ordinary or the Court may, if necessary, grant Commission and Diligence for the Recovery of documentary Evidence at any Stage of the Cause; and all such Commissions as are to be executed in Edinburgh shall be directed to the Examiners of Court appointed in virtue of this Act.

60. Where

Jury to be summoned by Precept from the Clerk of Court.

60. Where a Trial or Trials shall be appointed to take place at the Inner House Sittings, or before the Lord Ordinary, a Jury shall be summoned by virtue of a Precept to be issued by the Clerk of the Process for the Trial of the Cause or Causes therein named at Edinburgh, in like Manner as Juries are summoned to the High Court of Justiciary, and a List of Jurors shall for that Purpose be returned to the Clerk of the Process, as provided by the Act of the Sixth Year of King George the Fourth, Chapter Twenty-two, and the Act of the Seventh Year of King George the Fourth, Chapter Eight, and the Number of Jurors required shall be specified in such Precept, being not less than Thirty-six nor more than Fifty: Provided always, that no practising Advocate, Writer to the Signet, Solicitor, or Procurator before any of the Supreme or Inferior Courts, shall be returned or summoned to serve on such Jury, or on any Special Jury.

Circuit Cases may be tried by the Jury of the Assize.

61. In Trials on Circuit the Jury shall be taken from the Lists of Jurors for the Trial of Criminal Offences, unless the Court shall see reason to appoint a Jury to be summoned for the Trial of any Cause on Circuit by Precept of the Clerk of the Court in manner hereinbefore provided, in which Case such Precept shall specify a Place and Time for such Trial.

Common Jury Ballot.

62. The Clerk of Court officiating at the Trial, either at Edinburgh or on Circuit, shall cause the Names and Designation of each and every Person who shall be included in the List of Jurors returned to him and summoned as aforesaid to be written on several and distinct Pieces of Paper or Parchment, all the Pieces being the same Size, and shall cause the Pieces to be rolled up as nearly as may be in the same Shape, and to be put together in a Box or Glass provided for that Purpose, and the Clerk shall draw out the said Pieces of Paper or Parchment One by One; and if any of the Persons whose Names have been so drawn shall not appear, or shall be challenged and set aside, then such farther Number until Twelve Persons be drawn who shall appear; and after all Causes of Challenge shall be allowed or disallowed, the said Twelve Persons so first drawn and appearing, and approved as indifferent, their Names being marked in the List, and they being sworn, shall be the Jury to try the Cause; and it is hereby provided that in challenging the Jurors it shall be lawful for the Pursuer or Pursuers jointly, where there are more than One, to have Four Challenges allowed without assigning any Cause, and the Defender or Defenders shall be allowed Four such Challenges; provided also, that where there are more than Four Defenders, One Challenge without Cause assigned shall be allowed for each Defender, the Challenges for Cause assigned, if any, being first made respectively.

 63. Every

Penalty for Default in Attendance of Jurors.

63. Every Person whose Name shall be so drawn as aforesaid, or who shall be summoned as a Special Juror as after mentioned, and who shall not appear after being openly called Three Times, upon Proof that such Person so making default has been lawfully summoned, shall forfeit and pay the Sum of *Five Pounds* Sterling for every Default in not appearing upon Call as aforesaid, unless some reasonable Cause of Absence be proved to the Satisfaction of the presiding Judge.

Jury may be sworn before previous Verdict returned.

64. If the Trial of any Cause shall be brought on before the Jury in any other Cause shall have returned their Verdict, or shall have been discharged, it shall be lawful for the Judge to direct a Jury to be balloted for in manner before provided, and to exclude from such Ballot the Names of the Jurors serving upon the Trial of such other Cause.

Application may be made for a Trial by a Special Jury.

65. It shall be lawful for either of the Parties in any Cause falling to be tried by a Jury in One of the Divisions of the Court, or before the Lord Ordinary, to apply by Motion to such Division or Lord Ordinary for an Order directing that the Cause shall be tried by a Jury chosen from the List of Persons liable to serve as Special Jurors, made up in Terms of the aforesaid Acts of the Sixth Year of the Reign of King George the Fourth, Chapter Twenty-two, and the Seventh Year of the Reign of King George the Fourth, Chapter Eight.

Mode of striking a Special Jury.

66. The Number of qualified Persons to be returned as Special Jurors to try any Cause shall be Thirty-six. The Names and Designations of such Jurors shall be annexed to a certified Copy of the Interlocutor, directing the Cause to be tried by a Special Jury, by the Clerk of the Court, who shall also upon Receipt of the foresaid Return give due Notice to the Agents of the Parties to attend him at a Time and Place to be specified in such Notice; and the said Agents shall, in Presence of the said Clerk, alternately, beginning with the Pursuer, strike off One from the List until the Number is reduced to Twenty, which Twenty only shall be summoned to attend the Court on the Day of Trial; and if either of the Parties shall fail to attend personally, or by Agent or Counsel, after such Intimation, then the other Party attending shall proceed to strike off One from the said List, and the Clerk of the Court shall strike off One alternately, so that Twenty Names be left on the List to be summoned to attend the Trial; and the Jury for trying the Cause shall consist of such Twelve of the said Twenty as shall first appear on the Names being called over in Court to try the Issue.

67. The

67. The Amount of the Sum to be paid to each Juror for serving on a Jury shall be regulated by Order of the Judge presiding at the Trial, provided that the Judge shall not order more to be paid to any Juryman than *Twenty Shillings* for each Day during which such Trial shall proceed; and such Sum shall be paid by the Agent of the Party or Parties against whom such a Verdict shall be found; and in case the Jury shall return a Special Verdict, the Sum allowed to each Juror shall be paid by the Agents for the Pursuer or Pursuers and Defender or Defenders in equal Portions; and the Party or Parties in whose Favour the Court shall ultimately decide upon such Special Verdict shall be allowed the Sum so paid by him or them to the said Jurors in the Expenses to be awarded by the Court. Payment of Jurors.

68. When it shall appear that it will be proper and necessary that the Jurors who are to try the Cause should have the View of the Houses, Lands, or Places in question, in order to their better understanding the Evidence that will be given upon the Trial of the Cause, in every such Case it shall be lawful for the Division of the Court or the Lord Ordinary, in the Interlocutor by which such Trial is directed, to order that a View should be allowed; and where such View is allowed as aforesaid, Six of the Persons named in the List of Jurors so summoned as Special Jurors or more, who shall be mutually chosen by the Parties or their Agents on both Sides (or if the Parties cannot agree, Six or more of the first Twelve on the List of Jurors), shall have the View, and they, or such of them as shall appear upon the Jury to try the Issue, shall be first sworn before any Ballot as herein-before provided; and so many only shall be balloted for to be added to the Viewers who appear as shall, after excluding all Defaulters and Challenges allowed, make up the Number of Twelve to be sworn for the Trial of the Cause: And it shall be lawful for the Division or the Lord Ordinary, and they are hereby required, in every such Case, by an Authority or Precept signed by the Clerk of the Process, to order and direct the Sheriff or Officer who shall summon the Jury for such Trial to have the said Jurors who shall be so selected or named to be Viewers as aforesaid at the Place in question some convenient Time before the said Trial, to the Effect that they should then and there have the Matters in question shown to them by Two Persons appointed by the Division or the Lord Ordinary; and the said Sheriff or Officer shall certify upon such Authority or Precept that the View has been had according to the Directions therein contained, and shall forthwith return the same to the Clerk: Provided always, that the Expense of such View shall be equally borne by the Pursuer or Pursuers and the Defender or Defenders, and that no Evidence shall be given at such View; provided also, that in case no View shall be had, or if a View shall be had by any of the Jurors contained View, how to be taken.

tained in the List, whether they shall happen to be any of the Jurors who shall be selected or nominated as aforesaid, yet the Trial shall proceed, and no Objection shall be allowed on account thereof or for Want of a proper Certificate as aforesaid.

Viewers in certain Northern Counties how to be chosen.

69. When an Order for a View has been obtained, and that the Place to be viewed lies in the Counties of Sutherland, Caithness, and Orkney (which Counties are not required to send Jurors to Inverness), the Sheriff Depute or Substitute of the said Counties respectively shall return Three Persons of the County in which the Action arises to be the Viewers; and the said Viewers shall be bound to attend at the Trial, and be first called to serve on the Jury; and if from any Cause it shall be expedient that Viewers should be sent from a neighbouring County, the Division or the Lord Ordinary shall issue an Order for a certain Number of Jurors of the nearest County from which it may be expedient that Viewers should be taken, and they shall be bound to attend the View, and shall be first called to serve on the Jury, as at present practised.

Oath to be administered to the Jury.

70. After a Jury has been chosen, as herein-before provided, and before the Trial is proceeded in, the Clerk of Court officiating at the Trial shall administer to the Jury the following Oath; viz^{t}.

'YOU swear by God, and as you shall answer to God at the great 'Day of Judgment, that you shall well and truly try this 'Cause, and a true Verdict give according to the Evidence.'

This and all other Oaths administered at any Jury Trial shall be administered in the Manner and according to the Form hitherto in use in the Superior Courts in Scotland.

Pursuer to have the Lead, unless otherwise ordered.

71. Unless the Division or the Lord Ordinary shall otherwise determine at or before the Time of fixing the Trial, the Pursuer of the Action shall be held to be Pursuer in the Issues of Fact raised on Record, and shall take the Lead at the Trial.

Procedure at the Trial.

72. Each Party before leading his Evidence shall be allowed One opening Speech, in the course of which he may explain to the Jury the Nature and Import of the Issues of Fact raised on Record: After the Defender's Case is closed, the Court may allow Evidence in Replication; and after the whole Evidence in the Cause is closed, One Counsel for the Pursuer or Pursuers and One Counsel for the Defender or Defenders (or where separate Defences have been lodged, One Counsel for each Party who shall have lodged separate Defences), may be heard in their Order before the Jury are charged by the presiding Judge.

73. The

Jury to answer such Questions as the Judge may put.

73. The Jury shall be bound to answer separately such Questions of Fact, whether averred by the Issue or not, as the presiding Judge shall require them to answer separately; and the Judge's Notes shall be Evidence that such Questions were put, and of the Answers returned by the Jury thereto; and the Court may proceed thereon in pronouncing Judgment in any subsequent Application or Proceeding in the Cause. After the Jury have returned Answers to any such Questions of Fact, it shall be lawful for the presiding Judge to direct the Jury in point of Law that they are bound, in conformity with such Answers, to return a Verdict for the Pursuer or Defender, as the Case may be.

Jury to assess Damages.

74. In all Actions for pecuniary Damages, the Jury if they shall find for the Pursuer, shall also assess the Damages.

Verdict, how to be taken.

75. The Chancellor or Foreman of the Jury shall be the Juror chosen by the Majority after they shall be sworn, and in case of an Equality of Votes the Juror first sworn shall have a double Vote; and when the Verdict is returned it shall be declared by the Chancellor or Foreman verbally in open Court, and shall be taken down in Writing before the Jury is discharged by the Clerk officiating at the Trial, who shall afterwards endorse and certify the same on the Interlocutor Sheet of the Process.

Verdict to be given when the Jury are agreed.

76. Subject to the Exceptions herein-after declared, all Verdicts shall be given by the whole Number of the Jury agreeing in the Verdict.

After Three Hours Deliberation Verdict may be returned if Nine are agreed.

77. If, after having been kept in Deliberation for a Period of Three Hours, Nine or more of the Jury shall agree upon a Verdict, the Verdict agreed to by such Nine or more may be returned as the Verdict of the Jury, and shall be taken and shall have the same Force and Effect as if found unanimously by the whole of the said Jury.

After Six Hours Deliberation Jury may be discharged.

78. If, after having been kept in Deliberation for a Period of Six Hours, Nine of the Jury shall not have agreed on a Verdict, it shall be lawful for the Judge presiding at the Trial, if he shall see fit, to discharge such Jury without their having given in a Verdict; and in that Case the Clerk shall endorse a Minute certifying the Fact upon the Interlocutor Sheet; and the Division or the Lord Ordinary by whose Authority the Cause shall have been appointed to be tried, may thereafter, upon the Motion of either Party, direct another Jury to be summoned for the Trial thereof, or take such other Procedure as would have been competent if no such Trial had been previously directed; and if from any Cause the Jury shall not be discharged at

Provision in case Jury not

discharged on the elapse of Six Hours.

the Expiration of the Period of Six Hours after they shall have retired for Deliberation, the Judge may at any subsequent Period receive a Verdict to which Nine or more of the Jury shall have agreed, or may discharge the Jury without their having returned a Verdict; and while the Jury are kept in Deliberation they may be furnished with necessary Refreshment, by Permission of the Judge.

Provision in case of Illness of Juror.

79. In case the Judge presiding at the Trial shall think fit to discharge any Juror on the Ground of Illness incapacitating such Juror from further Attendance, the Trial shall proceed, and a Verdict may be returned either by the whole of the remaining Jurors concurring therein, or by Nine of such remaining Jurors concurring therein after having been kept in Deliberation for a Period of Three Hours.

Special Verdicts how to be framed.

80. It shall be lawful for the Jury to return a Special Verdict in the Form in which such Verdicts have been in use to be returned; provided that the Judge presiding at the Trial before receiving such Verdict may require the Jury to amend the same, by finding specially upon any Matter which he may consider material to the Cause; and it shall be lawful for the Judge, before receiving any Verdict, to require the Jury to reconsider the same, if he shall have Reason to believe that they have misapprehended or overlooked any Direction in point of Law which he may have given to them previous to their Retirement.

Judge to furnish the Parties with a Report of theEvidence.

81. In case either Party shall desire to submit the Verdict or Proceedings at the Trial to the Consideration of the Court, as herein-after provided, the Judge who presided at the Trial shall furnish the Parties or either of them with a Report in Writing of the Evidence adduced and given on the Trial, as taken down by him at the Time, and of his Directions if any in point of Law, and of any Questions specially put by him to the Jury, with the Answers thereto as noted at the Time, together with his Note of any Reservation of Leave to move the Court upon any Point of Law; and such Report of the Proceedings on the Trial shall be conclusive of what passed at such Trial: Provided always, that the Judge may, with Consent of the Parties, allow any Shorthand Writer's Report to be substituted in place of his own Notes of the Evidence, and may add to such Report his own Notes of such other Matters as are herein directed to be furnished to the Parties, or may refer to such Shorthand Report for the Purpose of revising or supplementing his own Notes of the Evidence.

82. The

Judge may, of Consent, reserve any Question of Law, with Leave to enter a Verdict.

82. The Judge at the Trial may, with the Consent of the Parties, direct the Jury upon any Matter of Law, whether arising on the Evidence or on the Record, subject to the Opinion of the Court upon such Direction, and with Liberty to either Party to move the Court to enter the Verdict for him, although returned against him, if the Court should be of opinion that such Direction was erroneous, and that such Party was truly entitled to a Verdict; and the Judge and the Court shall afford every Facility to any Party to obtain the Opinion of the Court upon any Direction so given, without the Necessity of printing the Notes of Evidence or the documentary Evidence adduced at the Trial, or more than may be necessary to enable the Court to judge of the Direction; and for this Purpose a Statement of the Direction, and of the Circumstances in which it was given, including, if that shall be thought proper, a Statement of the Purport of the Evidence, so far as bearing on the Direction or necessary to enable the Court to judge of it, agreed upon by the Parties or certified by the Judge at the Trial, shall be received and acted upon by the Court; and such Statement and Agreement or Certificate may, in the Option of the Parties or according to the Discretion of the Judge at the Trial, be either verbal or in Writing.

Procedure upon Motions pursuant to Leave reserved.

83. The Opinion of the Court upon any Direction given as aforesaid may be obtained upon Motion to enter the Verdict for the Party moving; and if the Court shall be of opinion that the Direction was erroneous, and that the Party moving is truly entitled to the Verdict, in whole or in part, they shall direct the Verdict to be entered for him, in whole or in part, either absolutely or on such Terms as they shall see fit, accordingly; otherwise they shall refuse the Motion; or they may, if they shall see just, set aside the Verdict, and direct a new Trial.

Exceptions to Judges Direction in Law how to be noted.

84. When an Exception is taken in the Course of a Trial, a Note thereof shall be taken by the Judge, or, if he shall so direct or the Party excepting shall think proper, a Note thereof shall be written out and signed by such Party or his Counsel, and initialed by the Judge at the Time; and such Exception, whether noted by the Judge or by the Party, may be made the Ground of an Application to set aside the Verdict, either by Motion for a new Trial or by Bill of Exceptions.

Bill of Exceptions, Form of.

85. The Bill of Exceptions (which may be subsequently prepared, and of which the same Notice shall be given as in the Case of a Motion for a new Trial,) shall consist of a distinct Statement of the Exception or Exceptions so noted, including such Statement of the Circumstances in which such Exception or Exceptions were taken, including,

if necessary, a Statement of the Purport of the Evidence, so far as bearing upon such Exception or Exceptions, as, along with the Record in the Cause, may enable the Court to judge of such Exception or Exceptions; and unless the Party excepting shall choose, or the Judge at the Trial shall so direct, it shall be unnecessary to print or submit to the Court the Notes of Evidence or the documentary Evidence adduced at the Trial; and when such Notes and Documents are submitted to the Court they shall form no Part of the Bill of Exceptions; and in discussing a Bill of Exceptions, it shall be competent for either Party to refer to the Record and to every Document produced and put in Evidence at the Trial, and the Notes of Evidence at the Trial may be produced and proceeded on at any Time.

Application for new Trial when grounded on Matter of Discretion.

86. It shall be competent for either of the Parties, if dissatisfied with the Verdict of the Jury, to apply to the Division of the Court to which the Cause is appropriated, for a new Trial, on the Ground of the Verdict being contrary to Evidence, on the Ground of excess of Damages, or of res noviter veniens ad notitiam, or for such other Cause as is essential to the Justice of the Case; and the Interlocutor granting or refusing a new Trial on any of the Grounds herein-before mentioned shall be final.

Application for new Trial upon Ground of Error in Law.

87. It shall be competent also for the Party who is dissatisfied with the Verdict to apply to the said Division for a new Trial, on the Ground of Error in the Direction of the Judge presiding at the Trial, either in relation to the Competency of Witnesses, the Admissibility of Evidence, or other Matter of Law arising at the Trial; provided that where it is intended to apply for a new Trial on any of these last-mentioned Grounds Exception shall be taken at the Time to the Direction of the Judge, who shall note the same, and give such Facilities for obtaining a Review of his Decision as are herein-before required with reference to Applications for Leave to enter a Verdict.

How such Applications are to be made.

88. Every Application for a new Trial shall be made by way of Motion for a Rule or Order to the opposite Party to show Cause why a new Trial should not be granted, of which Notice shall be given to the opposite Party within Eight Days after the Verdict is returned, or, if that Period shall expire in Vacation or Recess, then within Eight Days after the next Meeting of the Court; and if the Court shall think fit to grant such Order or Rule, the Grounds upon which the Rule is granted shall be specified in the Interlocutor granting the same, and the Procedure shall in other respects be in accordance with the existing Usage: Provided always, that, except where the Application for a new Trial is made on the Ground of the Verdict being

being contrary to Evidence, it shall not be necessary to lay the whole Evidence before the Division of the Court in which the Application is made, unless the Party moving shall choose, or the Judge at the Trial shall so direct.

Restriction upon Right to new Trial where founded on undue Admission or Rejection of Evidence.

89. A new Trial shall not be allowed upon the Ground of undue Admission of Evidence, if in the Opinion of the Court the Exclusion of such Evidence could not have led to a different Verdict than that actually pronounced, and it shall not be imperative on the Court to grant an Application for a new Trial on the Ground of the undue Rejection of documentary Evidence, when it shall appear from the Documents themselves that they ought not to have affected the Result at which the Jury by their Verdict had arrived.

Application of the Verdict.

90. Motion for the Application of Special Verdicts, whether returned at a Trial in the Inner House, or on Circuit, or before the Lord Ordinary, shall be made in the Division in which the Cause depends. Motions for the Application of General Verdicts returned at a Trial before the Lord Ordinary (in the event of no Application being made for a new Trial) may be made either before such Lord Ordinary or before the Division; and where any Cause shall have been brought before the Inner House after Trial, for any Purpose, it shall not again be remitted to the Lord Ordinary, but shall remain in the Division until the whole Cause is disposed of.

Expense of abortive Trial to be borne by the Party going to Trial upon an irrelevant Pleading.

91. Where, in consequence of the Determination of the Court upon any Question of Law arising upon the Record, Judgment shall be given against the Party for whom a Verdict has been found, the Court shall adjudge to the Party against whom such Judgment is given the Expenses occasioned by the Trial of any Issues of Fact arising out of any Pleading for Defect of which such Judgment is given upon which such Party shall have succeeded; and such Expenses shall be set off against any Money or Expenses adjudged to the opposite Party, and Decree shall be given for the Balance in favour of the Party entitled thereto; and the Court shall after Trial have such, and the like Power to allow an Amendment of the Pleadings to which Objection shall have been taken as is herein-before provided with respect to Hearings upon Questions of Law before Trial.

Questions of Law may be raised at the Trial in the Form of a Special Case for the Opinion of the Court.

92. It shall be lawful for the presiding Judge, with the Consent of the Parties, at any Time in the course of the Trial to adjust a Special Case, in which the Fact or Facts appearing at the Trial, and material to the Determination of the Cause, shall be set forth in the same Manner as in a Special Verdict; and such Case shall be signed

by Counsel, and authenticated by the Judge; and thereupon the Jury shall be discharged without returning a Verdict; and thereafter the Record, together with such Special Case, and any documentary Evidence therein referred to, may be boxed to the Court by either Party; and the Procedure thereupon shall be as nearly as possible the same as in the Case of a Special Verdict; and the Court or the House of Lords shall be at liberty to draw all Inferences of Fact as well as Law from the Facts stated in such Special Case, or appearing upon the documentary Evidence therein referred to.

PART III.

Procedure in Actions to be instituted by Bill.

And with respect to Actions which might heretofore have been instituted by Summons other than those provided for in Part First of this Act, be it enacted as follows:

Ordinary Actions, other than simple petitory Actions to be instituted by Bill, in which the Conclusions shall be stated in the Form of a Prayer.

93. All such Actions shall in future be instituted by printed Bill, addressed to the Lords of Council and Session, with a Condescendence annexed thereto (Schedule C.) after the Form in use in Notes of Suspension, but without Pleas. The Prayer of every such Bill shall conclude (having regard to the Forms in the annexed Schedule, and any Forms which may be issued in virtue of the Powers herein-after contained) for such Declarator, Order ad factum præstandum, or other Remedy, as might heretofore have competently been sought by the Conclusions of a Summons, and shall also conclude for such Decerniture for Payment of Money, in addition to such Declaration, Order, or other Remedy, as may be necessary for the Relief of the Pursuer, and shall also conclude for general Relief; and such Bill may be designated as a Bill of Declarator, Reduction, or otherwise, according to the Nature of the Prayer thereof.

Defender to be summoned by a Precept annexed to the Bill.

94. There shall be annexed to every Bill under this Act a Precept (Schedule D.) summoning the Defender to appear and put in Answers on the ordinary Induciæ (as defined in Part IV. of this Act); to which a Warrant of Arrestment may be added, which Precept shall be signed by the Pursuer's Agent, and signeted in common Form, and shall be a sufficient Warrant to any Messenger-at-Arms for Service of the Bill and Condescendence, and Execution of the Warrant of Arrestment, if any, and shall be equivalent in Law to the Will usually annexed to Summonses passing the Signet.

Bill may contain Conclusions ad Factum

95. It shall be lawful in the Prayer of any Bill to conclude for a Warrant decerning and ordaining the Defender to do or perform any Matter or Thing which such Defender may lawfully be compelled

pelled to do or perform by Civil Process, saving and excepting all Matters in relation to which exclusive Jurisdiction has been conferred by Statute on any other Court; and it shall also be lawful in such Prayer to conclude for Interdict, but without Prejudice to the Right of the Party to take Proceedings by Manuscript Bill of Suspension and Interdict in the Bill Chamber, in place of proceeding by printed Bill in the Court of Session.

præstandum or for Interdict.

96. The Pursuer shall, at least Eight Days before the Expiration of the Induciæ, lodge the printed Bill with any Documents which he may desire to put into Process at that Stage, with the Clerk of the Process or his Assistant, for Enrolment, and such Clerk shall forthwith cause the same to be enrolled and published in the daily Roll of Causes depending in the Court of Session (in manner specified in Part XI. of this Act), and no further or other Procedure shall be requisite for bringing the Action into Court: Provided always, that, subject to the Provisions herein-after contained relative to Protestation, the Clerk shall be bound to receive any such Bill at any Time within Three Months after the Date thereof, and shall forthwith cause the same to be enrolled and published as aforesaid; but where the Bill has not been lodged in due Time Answers shall not be returnable until Eight Days after the Bill shall have been lodged for Enrolment.

Enrolment of Bill.

97. As soon as the Bill has been lodged for Enrolment Appearance may be entered for the Defender, and such Appearance shall be in the Form provided in Part I. of this Act; and, unless the Defender shall lodge an Appearance and Answers before the Expiration of the Induciæ (or before the Expiration of the Period of Eight Days allowed for Answers where the Bill has not been lodged in Time), it shall be lawful for the Pursuer forthwith to enrol the Cause in the Lord Ordinary's Motion Roll, and to move for and obtain Decree against such Defender in Terms of the Prayer of the Bill or Part thereof, but without Prejudice to the Right of the Pursuer to proceed to establish his Case ex parte: Provided always, that where Answers are tendered at the Bar the Lord Ordinary may allow such Answers, together with an Appearance for the Defender, to be received; but the Expense of Answers so received shall not afterwards be allowed as a Charge against the Pursuer.

Appearance of the Defender.

Procedure in case of Non-appearance.

98. In the Condescendence annexed to any Bill under this Act the Pursuer shall set forth as concisely as may be the material Facts, Circumstances, and Ground in Law on which he relies, such Narrative being divided into Paragraphs numbered consecutively, and each Paragraph containing as nearly as may be a separate and distinct Statement

Condescendence annexed to Bill to contain distinct and complete Statements of each

Ground of Action.

Statement or Allegation; and where the Pursuer intends to claim Relief on more than One distinct Ground of Action, he shall, if such Division can conveniently be made, divide the Condescendence into Two or more Articles, in which the material Facts, Matters, and Circumstances appropriate to each separate Ground of Action shall be separately set forth, and such Articles may be divided into Paragraphs as aforesaid. Where any detailed Statement, as, for instance, a Description of Heritable Property, is set out in the Prayer of the Bill in order that it may be included in the Extract, such Statement or Description shall not be repeated, but shall be referred to in the Condescendence and Answers.

Answers how to be framed.

99. It shall not be lawful for the Defender in his Answers to repeat any Part of the Statement in the Bill, or merely to give a different Account or Version of the Facts there stated. Where the Condescendence annexed to the Bill has been divided into distinct Articles, the Defender shall answer in separate Articles the separate Grounds of Action embraced in such Articles, but shall not be required to answer separately the different Paragraphs into which the Condescendence is divided. He shall set forth, substantively or by Reference to the Condescendence, his Denial of any material Averment of the Condescendence, and shall also set forth as concisely as may be a Narrative of the material Facts, Circumstances, and Grounds in Law on which he relies, other than those which are narrated in the Condescendence, and may also take Objection in Law to any particular Article or Averment of the Pursuer in the Manner and Form provided with respect to Objections in Law in Part First of this Act; and such Answers shall be printed.

Express Admission of Facts unnecessary, and Court to decide according to the Evidence, documentary or oral, although contrary Averment not expressly denied.

100. All material Averments of the Condescendence which are not expressly denied shall be held to be admitted by the Defender, subject to these Exceptions:—

(1.) Neither Party shall be bound by the other Party's Averment of the Contents or Construction of any Deed or Writing; but the Court shall decide according to the true Tenor and Construction thereof:

(2.) And in the event of a Trial or Proof being allowed on any Branch of the Cause, neither Party shall be held to be precluded by any implied Admission of the other Party's Averments from founding upon the Facts established by such Trial or Proof, although there may be a Variance between the Facts actually proved and the Averment applicable thereto.

Along with his Answers, the Defender shall lodge any Documents which he may desire to put into Process at that Stage.

101. Neither

Adjustment of Bill and Answer. Additional Statement, if any, may be made in a separate Minute.

101. Neither Party shall be at liberty to lodge any other Pleadings, without the Consent of the Lord Ordinary; but the Lord Ordinary may, upon a verbal Statement of the Substance of any material Fact which it is necessary for either Party to plead as a substantive Part of his Case, allow the same to be added, either by way of Manuscript Addition upon the Condescendence or Answers, or in a short separate Minute, which shall be entitled "Minute for the Pursuer" or "Defender," as the Case may be, and shall be printed at the Expense of the Party putting it in: Provided always, that if the Pursuer shall lodge such a Minute, he shall, if necessary, state therein his Denial of any material Averment in the Defender's Answers, not being an Averment in relation to the same Matters as are contained in the Condescendence; and shall also, if necessary, take Objection in Law to any Article or Averment in the Defender's Answers; and the Lord Ordinary shall in all Cases allow a Minute to be lodged by the Pursuer to the Effect of enabling him to put upon Record his Objections in Law to, or Denial of, any material counter Averments in the Defender's Answers.

Power to amend Record vested in the Court.

102. It shall be lawful, with the Leave of the Lord Ordinary, or of the Court, at any Period in the Progress of the Cause, to amend the Prayer of any Bill of Complaint or any Condescendence or Answers by a Manuscript Alteration to be made upon the Record Copy of such Bill or Answers, to the Effect of obviating any Error or Defect of Form in such Bill or Answers, and to enable Justice to be done according to the real Merits of the Question in controversy between the Parties; and the Court may annex to any Order allowing such Amendment the Condition of Payment of Expenses to the opposite Party, not exceeding the Expenses of the Discussion at which such Amendment shall have been made; and may require the Party making such Amendment to reprint his Paper before further Procedure; and res noviter veniens ad notitiam, or emerging since the Commencement of the Action, may be averred by an Amendment of the Record, as herein provided, the Costs thereof to be in the Discretion of the Court.

Record to be closed by the Lord Ordinary.

103. As soon as Answers shall have been lodged, the Clerk to the Process shall transmit the Bill and Answers to the Lord Ordinary, who shall consider the same, and shall cause the Case to be enrolled for the Purpose of having the Record closed; and on the Case being called in virtue of such Enrolment, either of the Parties may move for Permission to make such Addition to or Amendment on their respective Popers as may be necessary or expedient; and if no Addition to the Condescendence or Answers, or Amendment of the Record, or separate Minute, shall be allowed, the Lord Ordinary shall forth-

with declare the Record closed, by an Interlocutor to that Effect; and in the event of such Addition or Amendment or Minute being allowed to be made, either at the Time or within such Period as may be appointed by the Lord Ordinary, the Lord Ordinary shall thereupon, or at the Expiration of the Time appointed, declare the Record closed, as aforesaid.

Procedure in Actions of Reduction.

104. Where in any Process instituted by Bill under this Act the Pursuer shall pray for Reduction of any Deed or Writing, the Precept annexed thereto shall require the Defender to produce the Deed or Writing of which Reduction is sought; and in the event of the Defender failing to make Production thereof along with his Answers, the Pursuer may apply for an Order or Diligence to recover such Deed or Writing, with the same Right to obtain Decree of Certifications in default of Recovery which is competent to a Pursuer under the existing Practice; provided that where in any such Process as aforesaid the Defender is to object to the Title of the Pursuer, or to plead on an exclusive Title, or to state any other Objection against satisfying the Production, he shall in the first instance lodge Answers confined to these Points, and the Form of these Answers, and the Procedure thereon, shall be the same as in the Case of Answers on the Merits; and if the Objections therein stated shall be repelled, the Defender shall, within a Time to be allowed for that Purpose, lodge Answers on the Merits, and produce with them the Documents sought to be reduced.

Counter Reduction unnecessary where Defender only asks Decree of Absolvitor.

105. It shall not be necessary for the Defender in any Action or Proceeding in the Court of Session to repeat a Bill or Summons, or to institute a counter Process of Reduction, to enable him to state by way of Defence his Objections to any Deed or Writing founded on by the Pursuer; but all such Objections may be stated and maintained as Matters of Defence, to the Effect of obtaining Decree of Absolvitor in such Action or Proceeding; provided that nothing herein contained shall prevent the Defender in any Action of Declarator or other Action from instituting a counter Action of Declarator or Reduction, and having the Actions conjoined, in order to the obtaining a positive Declaration of his own Title.

Procedure in Actions of Competition.

106. In Actions of Multiplepoinding and other Actions of Competition the Fund in medio shall be stated in the Condescendence annexed to the Bill; and it shall be lawful for any Defender, before putting in a Claim, to lodge Answers to the Bill, in which all Objections to the Statement of the Fund shall be set forth; and thereupon the Pursuer may be required to amend his Statement of the Fund, or

to

to lodge a Minute describing the Fund more specifically, for which he shall not be entitled to recover any Expenses out of the Fund.

Forms of Claim in process of Competition.

107. Claims shall consist of a Condescendence in the Form hereinbefore provided, with a Prayer or formal Claim in the Form presently in use, but shall not contain any Pleas in Law; and such Claims shall be lodged in Writing, and the Record shall afterwards be printed by One of the Parties, to be named by the Lord Ordinary, at the joint Expense of the Parties. It shall not be lawful to object to a joint Claim on the Ground that the Parties so claiming have not the same Interests in the Fund.

Claims how to be framed and adjusted.

108. It shall not be lawful in any Claim to repeat any Part of the Statement in the Bill, or merely to give a different Account or Version of the Facts stated in the Bill. Each Claim shall be held to imply a general Denial of adverse Claims; but any of the Parties may, at the Sight of the Lord Ordinary, amend his Claim, or lodge a short Minute denying any material Fact in any such adverse Claim which he wishes to put in issue, or averring any Matter in answer to such adverse Claim which it is necessary to plead as a substantive Part of his Case; and no further Amendment or Revision shall be allowed as preparatory to the closing of the Record.

Provisions of Part I. as to special Issues and Cases to apply to Procedure by Bill.

109. The Provisions contained in Part I. of this Act relative to the Statement of Questions of Fact in a Special Issue agreed on by the Parties, and the Statement of Questions of Law in a Special Case of Consent, shall be applicable also to Actions instituted by Bill of Complaint; and in Processes of Competition a joint Case may be stated for such of the Parties as lay claim to any particular Subject or Fund, although such Subject or Fund constitutes only a Part of the Fund in medio.

Consistorial Actions regulated.

110. The Procedure in Consistorial Actions, in so far as relates to the making up of the Record and the Mode of taking Proof, shall be the same as in other Actions instituted by the Bill of Complaint; provided that in other respects the Provisions of an Act of the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter Eighty-six, shall continue to be applicable to such Actions; provided also, that the Lord Ordinary shall in all Actions of Divorce administer the usual Oath of Calumny to the Pursuer, and that no Decree or Judgment in favour of the Pursuer shall be pronounced in any such Action, or in any Action of Declarator of Marriage, of Nullity of Marriage, Legitimacy, or of Bastardy, or in any Action of Separation a mensâ et thoro, whether Appearance shall

or shall not be made for the Defender, until the Grounds of Action shall have been substantiated by sufficient Evidence.

111. It shall not be necessary to institute an Action of proving the Tenor to enable a Party in any depending Action to found upon any Deed or Writing accidentally lost or destroyed, but the Contents of any such Deed or Writing may be proved by secondary Evidence in an Action of any Form after it has been established by legal Evidence that such Deed or Writing was lost or destroyed without being thereby revoked or cancelled: Provided always, that it shall be lawful for any Party desirous of proving the Tenor of any such Deed or Writing judicially, for the Purpose of preserving Evidence thereof, instead of raising an Action in the present Form, to apply to the Inner House by Summary Petition to the like Effect; and Judgment shall not be given in favour of the Petitioner until the Grounds of his Application shall have been substantiated by sufficient Evidence.

Regulations as to Actions formerly appropriated to the Inner House.

112. Actions of Cessio Bonorum shall in future be instituted in the Sheriff Court. In lieu of Actions of Cognition and Sale, which are hereby abolished, an Application to sell the Estate of the Ward may be made by way of summary Petition, to be presented in the first instance to the Junior Lord Ordinary, or to the Lord Ordinary officiating on the Bills in Vacation or Recess. All Actions of Aliment, of Division of Commonty and Runrig Lands, of Ranking and Sale, and every other Inner House Action, except such Summary Petitions as are still appropriated to the Inner House, shall proceed in the first instance before the Lord Ordinary, who is hereby empowered to hear and determine all such Actions without reporting to the Inner House. The Forms of Procedure in Teind Causes shall remain as at present constituted.

Act not to extend to Teind Causes.

No Debate to be allowed after Record closed, unless Parties renounce Probation.

113. When it appears upon the Record that the Parties are at issue upon any material Question of Fact, the Lord Ordinary shall, at the Time of closing the Record, or before any further Procedure is taken in the Cause, require the Parties to state positively whether they renounce Probation. If Probation is renounced, a Minute to that Effect shall be endorsed on the Interlocutor Sheet, and signed by Counsel, and the Case may then be, but not otherwise, enrolled in the Debate Roll.

If Probation not renounced, Lord Ordinary to determine what Part of the

114. If Probation is not renounced, the Parties shall then and there state specifically, by Reference to the printed Bill and Answers, the Averment or Averments upon which they respectively desire Probation, or they or either of them may move in general Terms for Proof of all such Averments as are denied by the opposite Party, and

and the Lord Ordinary shall thereupon allow to the Party or Parties a Proof in Terms of his or their Motion, unless the other Party shall obviate the Necessity for such Proof, in whole or in part, by then and there admitting the Truth of the Averments on which Probation is required; such Admission being made by Minute endorsed on the Interlocutor Sheet, and signed by the Counsel of the Party making the Admission; and the Lord Ordinary shall in the Interlocutor allowing a Proof determine the Manner in which such Proof shall be taken.

Pleadings are to be remitted to Probation.

115. In all Actions instituted by Bill under this Act, where the Proof allowed by the Lord Ordinary (or by the Court upon a Reclaiming Note against the Lord Ordinary's Interlocutor) shall be appointed to be by Jury Trial, such Parts of the Record as shall by such Interlocutor be admitted to Probation shall be considered to be put in issue at the Trial, and the whole Provisions contained in Part II. of this Act shall be applicable to Trials of such Issues of Fact as may be remitted for Jury Trial by any such Interlocutor.

Where Trial by Jury allowed Record or Part thereof to be put in issue.

116. It shall be lawful for the Party against whom a General Verdict shall have been returned, upon the Trial of any Issue of Fact in any Action commenced by Bill of Complaint, to move for Judgment in his Favour, notwithstanding such Verdict, upon any Matter of Law arising upon the Record which may be found and determined by the Court in Terms of such Motion, without thereby contradicting the Verdict of the Jury; and such Motion may be made and argued as counter to any Motion for the Application of the Verdict.

Judgment be given on Matter of Law after Trial.

117. In the event of a Special Case or Special Verdict being adjusted or being returned upon the Trial of an Issue of Fact in any Action commenced by Bill of Complaint, either Party may at the Argument upon such Special Case or Verdict also move for Judgment upon any Matter of Law arising upon the Record, and which may be found and determined by the Court without contradicting the Terms of such Special Verdict.

The like Procedure where a Special Case or Special Verdict has been settled at the Trial.

PART IV.

Proof, Diligence, Service, and Incidental Procedure.

And with respect to Probation and the Recovery of documentary Evidence, be it enacted as follows:

118. Where in any Action or Proceeding (other than such Actions as are herein directed to be instituted by Summons) the Questions of Fact

In Cases not suited for Jury Trial, Proof to be

taken before the Lord Ordinary or One of the Examiners of Court.

Fact raised upon the Record shall not be considered by the Lord Ordinary or the Court to be suitable for Determination by Jury Trial, the Interlocutor allowing a Proof shall appoint such Proof to be taken either before the Lord Ordinary or before One of the Examiners of Court to be appointed in virtue of this Act; provided that where it is necessary to examine any Witness residing out of the Jurisdiction Commission may be granted by the Court for that Purpose to any qualified Person.

Citation of Witnesses and Havers for Trial.

119. A certified Copy of the Interlocutor appointing a Proof to be taken before the Lord Ordinary or a Commissioner shall be a sufficient Warrant for the Citation of Witnesses and Havers to all Diets of Proof.

Recovery of Documents by Diligence before Trial.

120. Either Party may, if necessary, at any Time after the Diet of Trial or Proof has been fixed, move for a Commission and Diligence to recover Documents in Terms of a Specification to be lodged in Process as relative to such Diligence; and the Commission, if it is to be executed in Edinburgh, shall be directed to the Examiners of Court; and a Copy of the Interlocutor granting Diligence in Terms of any such Specification or amended Specification shall be a sufficient Warrant for the Citation of Havers to all Diets of Proof; provided also, that such Commission and Diligence may be granted at any prior Stage of the Cause, if it shall appear that such Documents are in danger of being lost or put away, or upon any other Ground essential to the Justice of the Case.

Trials of Fact before the Lord Ordinary.

121. Where a Proof shall be appointed to be taken before the Lord Ordinary, a Diet of Proof shall be appointed, and, subject to any Regulation which the Court may establish regarding opening, the Mode of Proceeding shall be similar and the Evidence shall be adduced in the same Order as at a Jury Trial; and the Lord Ordinary shall either with his own Hand note the Evidence, in which case it shall be read over to the Witness in open Court, and shall be signed by the Witness, if he can write, or the Lord Ordinary shall cause it to be taken down and recorded in Shorthand by a Writer skilled in Shorthand Writing, to whom the Oath de fideli administratione officii shall be administered, and the Lord Ordinary may direct the Shorthand Writer to omit any such Statements of the Witness as are immaterial, and may dictate to the Shorthand Writer the Words which he is to take down where these are important, and shall either note himself, or dictate to the Shorthand Writer, a Note of the Documents adduced, and of any Evidence, whether oral or written, tendered and rejected, or admitted after having been objected to, and of the Ground of such Rejection or Admission of Evidence; and

and the said Shorthand Writer shall afterwards write out in full the Evidence so taken by him, and the Notes of the Judge, or the extended Notes of the Shorthand Writer, certified by the Lord Ordinary to be correct, shall be the Record of the oral Evidence in the Cause; and the Diet of Proof may be adjourned by the Lord Ordinary, if he shall consider it proper and reasonable so to do; but the Proof shall be taken as far as may be continuously, and with as little Interval as the Circumstances and the Justice of the Case will admit of.

Judgment upon such Trial.

122. As soon as the Proof on both Sides has been closed (or after the Lord Ordinary has certified the Shorthand Writer's Notes of the Evidence, where the Evidence has been taken in Shorthand), Counsel for the Parties shall be heard on the Evidence; and the Lord Ordinary shall thereafter pronounce an Interlocutor disposing separately of the several Questions of Fact raised upon Record (or such of them as may have been submitted for his Consideration at the Trial), and his Interlocutor shall be subject to Review upon the Notes of the Evidence; and in reviewing any such Interlocutor it shall be lawful for the Court or the House of Lords to alter any Ruling of the Lord Ordinary with respect to the Admissibility of Evidence appearing upon the said Notes.

Questions of Law to be disposed of at the Hearing upon such Trial.

123. Unless it shall appear that it would be impracticable or inconvenient to dispose of the whole Cause at the Time of disposing of the Questions of Fact on which Evidence has been adduced before the Lord Ordinary, the Lord Ordinary shall at the Hearing upon the Evidence also hear Counsel upon the whole Merits of the Cause, including such Questions of Law as may be raised upon Record; and in that Case (or in case no Proof shall be required) the Lord Ordinary shall, after hearing Parties upon the whole Merits of the Cause, pronounce an Interlocutor disposing separately of such Questions of Law and Fact arising upon the Record and Evidence as may be necessary for the Determination of the Merits of the Cause, and shall either assoilzie the Defender, or grant such Relief as may be just and consistent with the Prayer of the Bill of Complaint or other initial Writ, or with any such additional Prayer as the Pursuer may be allowed to add by way of Amendment.

Examiners to take Evidence, and conduct Inquiries upon Remit from the Court.

124. It shall be lawful for Her Majesty, Her Heirs and Successors, to appoint Two Persons, being Advocates of not less than Three Years standing, to be called Examiners of the Court of Session, to aid in taking Proofs, and to discharge such other Duties as have usually been performed by Commissioners appointed by the Court; and each Examiner shall be paid out of the Fee Fund of the Court of Session a Salary

a Salary of Pounds, and shall not receive Fees for the Discharge of any Duty imposed upon him by this Act, or for executing any Commission or Remit whatever; and all such Causes and Questions of Fact as cannot conveniently be tried by the Lord Ordinary shall be remitted to the said Examiners, and shall be tried by One or other of them; and the Proofs before such Examiners shall be taken as far as possible continuously, and according to the Order and Method herein-before prescribed with respect to Trials before the Lord Ordinary, except that the Examiner shall not have Power to decide any such Cause or Question, but shall report the Evidence to the Lord Ordinary, or, if the Parties consent, to the Division of the Court before which the Cause depends: Provided always, that the Examiner shall be at liberty in reporting the Evidence to state his Opinion upon any particular Matter of Evidence arising at the Proof.

Matters of Account may be remitted to professional Accountant for Inquiry.

125. Where in any Action, whether instituted by Summons, Bill, or otherwise, it shall appear to the Lord Ordinary or the Court that the Matters of Fact in dispute consist wholly or in part of Matters of accounting which cannot conveniently be investigated by Jury Trial, or by a Proof in the Manner herein-before provided, it shall be lawful for the Lord Ordinary or the Court, upon the Motion of either Party, to remit to an Accountant or other qualified Person to prepare a State of Accounts in relation to the Matters in dispute, with Power to examine Havers, and to recover documentary Evidence, and, if necessary, to hear the Parties, and to report his Opinion upon the Matters of accounting; and the Parties shall be entitled to be heard before the Lord Ordinary or the Court upon the said Report; provided that before the Hearing on any such Report or State of Accounts the Parties shall, if required by the Court or by the opposite Party, put into Process a Note of the Objections intended to be maintained to such Report.

Cases depending on documentary Evidence, &c. to be remitted to Examiner for Inquiry.

126. Where it shall appear to the Lord Ordinary or the Court that the Matters in dispute (whether relating to Accounts or otherwise) depend wholly or principally upon documentary Evidence, or that such Matters cannot conveniently be determined without a preliminary Investigation under the Authority of the Court, it shall be lawful for the Lord Ordinary or the Court to remit the Cause to the Examiners of Court, either generally or with Instructions; and in all such Cases the Examiner is hereby empowered to take such Assistance from Accountants or Persons of Science or Skill as he shall think proper, and also to recover Documents, and, if necessary, to take Evidence (which shall be noted in the Manner above provided); and the Result of the Investigation made in pursuance of any such Remit

Remit shall be stated either in a Report or in the Form of a short Certificate of the Examiner's Opinion, bearing Reference as far as necessary to any State of Accounts, Report, or Evidence which may have been obtained in the course of such Remit.

Adjustment of the Report and Documents to be submitted to the Court.

127. Every such Report or Certificate shall be shown to the Parties before being signed; and the Examiner shall afterward call the Parties before him, and in the event of either Party intimating his Dissatisfaction with the Report or Certificate he shall adjust with the Parties an Inventory of such Evidence, Productions, or other Papers in Process as may be necessary to be printed for the Information of the Court, in order to the Determination of the Matters reported on; and no other Matters shall be printed or referred to in the Debate upon such Report or Certificate, unless with Leave of the Court, upon Cause shown: Provided always, that before the Hearing upon any such Report or Certificate the Parties shall, if required by the Court or by the opposite Party, put into Process a Note of the Objections intended to be maintained to such Report or Certificate.

Court or Lord Ordinary may receive Evidence on incidental Matters.

128. TheCourt or the Lord Ordinary may, without any formal Order for that Purpose, receive Evidence vivâ voce for or against any Motion or for or against any Application for interim Interdict or other Matter requiring Despatch, and may receive Affidavits in support of or in opposition to any such Motion or Application.

Fees to be paid upon Examiners Reports and Certificates.

129. There shall be paid into the Fee Fund of the Court of Session, upon every Report by an Examiner of Court, the following Sums, viz., upon each Report of a Commission and Diligence for the Recovery of Documents and Examination of Havers, the Sum of *Two* Pounds, and upon every other Report or Certificate the Sum of *Three* Pounds; and such Payments shall be defrayed by the Pursuer and Defender in equal Moieties; and in the Case of Actions of Competition by the several Parties interested, in equal Shares, one Share being payable in respect of each Claim; and the Agent lodging any Report or Certificate, and paying the Dues thereof, shall be entitled to recover any Share payable by other Parties.

Examinations of Witnesses going abroad, &c., upon Commission.

130. When it shall be made to appear to the Satisfaction of the Lord Ordinary or the Court that a Witness resides beyond the Reach of the Process of the Court, and is not likely to come within its Authority prior to the Day of Trial or Proof, or that such Witness cannot attend on account of Age or permanent Infirmity, or is labouring under severe Illness which renders it doubtful whether his Evidence may not be lost, or is a Seafaring Man, or is obliged to go into Foreign Parts, or shall be abroad, and not likely to return before

the Day of Trial, it shall be lawful for the Lord Ordinary or the Court to grant Commission and Diligence for the Examination of any such Witness either upon the Matter of the Action generally or upon any particular Matters upon which a Trial or Proof may previously have been allowed; and in Cases of Emergency, Application for Commission to examine any such Witness may be made before the Action has been enrolled upon Production of the executed Summons, Bill, or other Initial Writ, and shall in that Case be made to the Lord Ordinary in the Cause, or in Time of Vacation or Recess, to the Lord Ordinary on the Bills; and where any such Commission shall be applied for in Vacation or Recess, in any Action in which a Trial or Proof has been allowed, such Application may be made either to the Lord Ordinary on the Bills or to the Judge before whom the Trial is to take place; and all such Commissions may be directed to the Examiners of Court.

Depositions may be used at Trial on certain Conditions.

131. If it is established at the Trial of the Cause to the Satisfaction of the presiding Judge, by Oath or Affidavit, that such Witness is dead, or cannot attend owing to Absence from the Country, Age, or permanent Infirmity, it shall be competent to use at such Trial the Evidence so taken, subject to all legal Objections to its Admissibility; provided also, that the Lord Ordinary may in his Discretion allow any Evidence taken on Commission as aforesaid to be put in by either Party at a Trial before himself without a Jury; and that Evidence so taken may be put in, as of Course, by either Party at a Proof before One of the Examiners of Court.

132. In all Cases where a Commission is granted upon the Application of One Party for examining any such Witness as aforesaid it shall be competent to the other Party to have a joint Commission, and it shall be competent to the Examiner to put such additional Questions to the Witnesses as may appear to him to be necessary, distinguishing the Questions so put.

Depositions may be used by opposite Party.

133. When One Party obtains a Commission to examine Witnesses as aforesaid, and does not use the Evidence obtained under the Commission, the other Party may use the Evideuce given under it at the Trial, provided he satisfies the presiding Judge that he could not bring the Witness or Witnesses whose Evidence he proposes to read; but the Depositions taken on Commission shall not be used if the Witnesses so examined shall be brought forward at the Trial.

Order for Inspection of Property.

134. Either Party in any Action or Proceeding in the Court of Session shall be at liberty to apply to the Court or Lord Ordinary for

for an Order for the Inspection by the Jury or Judge, Examiner or Commissioner, or by himself or by his Witnesses, of any Real or Personal Property, the Inspection of which may be material to the proper Determination of the Question in dispute; and it shall be lawful for the Court or the Lord Ordinary, if they or he think fit, to make such Order upon such Terms, as to Costs or otherwise, as they or he may direct: Provided always, that nothing herein contained shall affect the Right of the Parties in Jury Cases to apply for a View by Jurors, as herein-before provided; and that any Inspection by a Jury under any such Order as is hereby authorized shall be conducted as nearly as possible in the Manner herein-before provided with respect to a View by Jurors.

Certified Copy of Interlocutor equivalent to Extract in certain Cases.

135. It shall not be necessary to obtain a formal Extract of any Interlocutor granting a Commission or Diligence, or an Order for a View, or for the Inspection of Property, or for the Transmission of any original Document from the Register, or for the Transmission of any Inferior Court Process in any Action or Proceeding before the Court of Session, but a Copy of any such Interlocutor, certified by the Clerk of the Process or his Assistant, shall have the same Force, Operation, and Effect as a formal Extract thereof.

Admission of Documents.

136. Either Party in any Action or Proceeding in the Court of Session may call on the other Party to admit any Document, saving all just Exceptions, and such Admission shall be signed by the Party, his Agent, or Counsel; and in case of Refusal or Neglect to admit, the Expense of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless the Judge or Commissioner before whom the Document was proved shall certify that the Refusal to admit was reasonable; and no Costs of proving any Document shall be allowed, unless such Notice be given, except in Cases where the Omission to give the Notice is, in the Opinion of the Auditor, a Saving of Expense.

Production of Documents on Demand of opposite Party.

137. Either Party may call on the other Party by Notice to produce any Document in his Possession or under his Control, saving all just Exceptions; and if the Party shall refuse or neglect to produce the same, and the Document shall afterwards be recovered from him under a Diligence, the Expense of Recovery shall be paid by the Party so neglecting or refusing, unless the Lord Ordinary (or the President of the Division, or Judge presiding at the Trial of the Cause, where such Diligence is granted by the Division,) shall certify that the Refusal to produce was reasonable.

Deficient Stamp Duty on any Document may be paid into Court at the Trial.

138. No Document tendered in Evidence at any Trial or Proceeding in the Court of Session (and which at the Time when the same was tendered might lawfully be stamped on Payment of a Penalty) shall be rejected by reason of the Omission to affix a Stamp thereto, or by reason of the Insufficiency of the Stamp, provided the Party tendering the same shall, before the Conclusion of such Trial or Proceeding, pay into Court such Sum as the Judge or Examiner shall certify to be the Amount of Stamp Duty or of additional Stamp Duty chargeable thereon, with the Penalty required by Statute, and an additional Penalty of One Pound.

Clerk to remit the Duty to Commissioners of Inland Revenue.

139. Every Sum so paid for Stamp Duty and Penalty, together with such Document and the Certificate of the Judge or Examiner written thereon, shall forthwith be transmitted by the Clerk of the Process to the Commissioners of Inland Revenue, who shall cause the said Document to be impressed with a denoting Stamp, corresponding to the Amount of Duty mentioned in the Certificate and received by them, and shall return the Document with all convenient Speed to the said Clerk.

Provision as to New Trials.

140. No new Trial shall be granted by reason of the Ruling of any Judge that the Stamp upon any Document is sufficient, or that the Document does not require a Stamp.

Induciæ of Summonses and Bills.

141. Service of all Summonses, Bills, and other Writs and Orders under this Act shall be made by a Messenger-at-Arms; and all Summonses and Bills shall proceed on Fourteen Days Warning where the Defender is within Scotland, unless in Orkney or Shetland, and Twenty-one Days Warning where he is in Orkney or Shetland or furth of Shetland; and such Induciæ shall also be competent and sufficient in respect to all other Letters passing Her Majesty's Signet bearing a Citation, Charge, Publication, or Service against Persons within or furth of Scotland respectively, and in respect to all Edictal Charges upon Decrees and registered Protests: Provided always, that in all Cases where any shorter Induciæ than the Induciæ above mentioned are at present sufficient, such shorter Induciæ shall continue to be sufficient after the passing of this Act.

Execution of Summonses and other Writs.

142. All Executions of Summonses and Bills, and all Executions of Intimation of Bills and Notes of Suspension, and Petitions, shall be written at the End of the Writ or Bill, or at the End of the usual certified Copy of such Bill or Note of Suspension, or Petition, and, where necessary, on continuous Sheets, but not on a separate Paper; and every such Execution shall be in the Form or as nearly as may be in the Form of Schedule (E.) hereunto annexed.

143. All

Edictal Citations regulated.

143. All Edictal Citations, Charges, Publications, Citations, and Services which under the ancient Practice fell to be made at the Market Cross of Edinburgh and Pier and Shore of Leith, as well in Processes of Ranking and Sale as in all other Processes and Proceedings whatsoever, whether as against Persons furth of Scotland or otherwise, and also the Edictal Citations of Minors' Next of Kin, which formerly fell to be made at the Market Cross of the County Town or Head Burgh of the Shire where the Minor has his Lands and Goods, and also Citations of the Tutors and Curators of Minors which formerly fell to be made at the Market Cross of the County Town or Head Burgh of the Shire of the Minor's Residence, shall be done and performed by Delivery of a Copy thereof at the Office of the Keeper of Edictal Citations at the General Register House at Edinburgh.

Registration of such Citations.

144. The Keeper of Edictal Citations, or his Clerk, shall forthwith register in a Book to be kept for that Purpose an Abstract of the Copy so delivered, exhibiting the Time of Service, the Nature of the Writ, the Names and Designations of the Parties, and the Day against which the Party shall be called upon to give Obedience or to make Appearance; and the Keeper of Edictal Citations shall keep Four distinct and separate Registers, one for all Citations on Summonses and Orders of Service as against Persons furth of Scotland to appear before the several Supreme Civil Courts respectively, another Record for all Citations by virtue of Letters of Supplement to Persons furth of Scotland to appear before any of the Inferior Courts of Scotland, a Third for all Charges, Intimations, and Publications to Persons furth of Scotland given by virtue of Letters other than Summonses passing the Signet, or Inhibitions, and a Fourth for Publications of Inhibitions and Interdictions, as herein-after provided.

Execution of Inhibitions and Interdictions to be made edictally.

145. In lieu of the Execution of Letters of Inhibition against the Lieges by Publication at the Market Cross of the Head Burgh of the Jurisdiction of the Debtor's Domicile, or at the Market Cross of Edinburgh and Pier and Shore of Leith, Execution shall be made by Service by a Messenger-at-Arms at the Office of the said Keeper of Edictal Citations; and all Bonds of Interdiction shall in like Manner be executed against the Lieges by Service of a Copy thereof at the said Office; and all Inhibitions against Wives shall in like Manner be executed against the Lieges by Service of a Copy thereof at the said Office, in lieu of Publication at the Head Burgh of the Jurisdiction where the Husband resides or is domiciled.

Publication of Abstracts of edictal Citations.

146. The said Abstracts, in so far as they comprehend Citations by virtue of Summonses, Precepts, Warrants of Court, and Letters of Supplement,

Supplement, shall periodically be printed by the Keeper of Edictal Citations, according to the existing Practice, or in such Manner and at such Times as the Court may appoint by any Act or Acts of Sederunt to be made in that Behalf; and at all Times the said Register of Edictal Citations shall be open to Inspection, and also the Copies of Charge, Citation, and Service which shall be lodged as aforesaid with the Keeper or his Clerk; and such Keeper and his Clerk shall be paid out of the Fee Fund of the Court of Session the Salaries which have heretofore been in use to be paid.

PART V.

Appearance of new Parties.

And with respect to the Appearance of Parties after the Institution of Proceedings, and the Mode of wakening and transferring Actions, be it enacted as follows:

Defective Instance may be obviated by Appearance of Parties by Minute.

147. It shall be lawful for the Lord Ordinary or the Court, at any Time before the Record is closed in any Action or Proceeding, to allow any Party who might have sued as a Pursuer, or as concurring in the Instance of such Action, to appear as a Pursuer of such Action, or as concurring therein; and such Appearance shall be made by a Minute for the Party so appearing, signed by his Counsel, in respect of which the Lord Ordinary shall sist the Party as Pursuer, or as concurring in the Action accordingly; and any Party so appearing shall thenceforth be liable as a Party to implement any Decree for Expenses which may thereafter be pronounced, whether such Expenses were incurred before or subsequent to his Appearance; and such Appearance shall be held to obviate any Objection to the Instance or to the Title of the Pursuer for Want of the Instance or Concurrence of the Party so compearing.

Leave may be granted to appear after Record closed in certain Cases.

148. It shall be lawful for the Lord Ordinary or the Court, at any Time in the Progress of a Cause, to allow any Party who might have sued as a Pursuer or as concurring in the Instance of the Action to appear in the same Manner and subject to the same Liability and to the same Effect as is herein-before provided in relation to the Appearance of Parties before the closing of the Record, if it shall appear to the Lord Ordinary or the Court that the Omission of such Party from the Instance of the Action was not for the Purpose of obtaining an undue Advantage, and that Injustice will not be done by permitting such Appearance.

Summons, &c. may be served by

149. It shall be lawful for the Lord Ordinary or the Court, at any Time before the Record is closed in any Action or Proceeding, to

to grant Warrant for serving the Summons, Bill, or other initial Writ upon any Party or Parties not called as Defenders in such Summons, Bill, or Writ, and at the same Time to allow such Party or Parties to give in Defences or Answers within a Time to be specified in the Interlocutor; and upon Service of such Summons, Bill, or Writ, together with a certified Copy of such Interlocutor, by a Messenger-at-Arms, upon any Party named in such Interlocutor, such Party, whether appearing or not, shall thenceforth be taken to be a Defender to all Effects, in like Manner as if he had been called in the Summons, Bill, or other Writ, except that he shall not be liable for any Expense incurred by the Pursuer prior to his Appearance; and the Service of such Summons, Bill, or Writ and Interlocutor upon the said Parties shall be held to obviate any Objection to such Summons or Writ on the Ground that such Parties were not called as Defenders.

Order of Court upon Parties not called.

150. It shall be lawful for the Lord Ordinary or the Court, at any Time in the Progress of a Cause, to grant Warrant for serving the Summons, Bill, or other initial Writ upon any Party or Parties not called as Defenders in such Summons or Writ, and at the same Time to allow such Party or Parties to give in Defences or Answers within a Time to be specified in the Interlocutor; and the Service of such Summons, Bill, or Writ and Interlocutor upon any such Party shall be held to obviate any Objection to such Summons or Writ on the Ground that such Party was not called as a Defender; but Parties so called after the Record has been closed shall not be bound to appear, and no Decree shall be pronounced in Absence against any such Party by reason of his Default in making Appearance when so called, and no Party so appearing shall be liable for any Expenses incurred prior to his Appearance.

The like Procedure after Record closed in certain Cases.

151. Any Defender called in the Summons, Bill, or other initial Writ, who shall have failed to appear at the proper Time, may be allowed to appear at any subsequent Time in the Progress of the Cause, of Consent of the Parties, or without such Consent, on his satisfying the Lord Ordinary and the Court that from Ignorance of the Dependence of the Process or other sufficient Cause he was unable earlier to appear, and that he has an Interest to defend; and any Person having an Interest, although not called in the Summons, Bill, or other initial Writ, may, of Consent of all Parties, or with the Leave of the Lord Ordinary or of the Court, appear as a Defender; and in either Case such Appearance shall be made by Minute, and the Party or Parties so appearing shall be sisted by Interlocutor, upon such Terms as to Expenses or otherwise as the Lord Ordinary or the Court may think just in the Circumstances.

Defender may appear with Leave of the Lord Ordinary, upon Cause shown.

 152. Any

Defender appearing after Action commenced may adopt Pleadings of Co-Defender.

152. Any Defender appearing by Minute, or in virtue of a Warrant of Service, may, instead of lodging Defences or Answers, lodge a Minute adopting the Pleadings of any other Defender already a Party to the Cause; and such appearing Party may thereafter defend the Action jointly with such other Party.

Provision as to Expenses.

153. In the event of any Party being allowed to appear either as a Pursuer or Defender for the Purpose of obviating any Objection to the Instance, or any Objection of Want of Parties, the original Pursuer shall not be found liable in any Expenses to the original Defender, unless such Objection shall have been stated in the original Defences or Answers, and insisted on before the Lord Ordinary prior to the closing of the Record.

Actions of Wakening and Transference abolished.

154. The Process of Wakening and also the Process of Transference by Summons shall be and the same are hereby abolished.

Procedure in lieu of Wakening.

155. Where according to the existing Practice a Cause would require to be wakened in order to its being proceeded with, it shall be competent for any of the Parties to enrol such Cause before the Lord Ordinary, and to lodge a minute craving a Wakening of the Cause; and the Lord Ordinary may thereupon direct Eight Days Intimation of such Minute to be made to the known Agents of the other Parties in the Cause, or to such Parties themselves, and shall also direct Intimation to be made in the Minute Book of the Court of Session; and on the Expiration of Eight Days from the Date of such Intimation, or from the latest Date thereof, and on a Certificate being lodged in Process under the Hand of the Agent of the Party applying for the Wakening, certifying that he has duly intimated the Minute in Terms of the Lord Ordinary's Interlocutor to such other Parties or to their known Agents, either by Delivery thereof, or by Transmission through the Post to the known Address of any such Parties or their Agents, of a Copy of such Minute and Interlocutor, the Lord Ordinary may pronounce an Interlocutor holding the Cause as wakened, and the same may thereafter be proceeded with as wakened accordingly.

Procedure in lieu of Action of Transference.

156. Where according to the existing Practice a Cause might have been transferred against any Party or Parties, it shall be competent to any Party who might have instituted a Summons of Transference to enrol the Cause before the Lord Ordinary, and to lodge a Minute craving a Transference of the Cause against such Party or Parties; and the Lord Ordinary may thereupon grant Warrant for serving the Summons, Bill of Complaint, or other initial Writ upon the Party or Parties against whom such Cause is sought to be transferred, and

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at the same Time shall allow such Party or Parties to give in a Minute of Objections to such Transference within a Time to be specified in the Interlocutor, and such Interlocutor shall also be intimated in common Form to the Agents of the other Parties in the Cause, and such and the like Procedure may be had in virtue of the Service of such Summons or other initial Writ on the Lord Ordinary's Warrant as might have been had in virtue of the Execution of a Summons of Transference; and if the Lord Ordinary shall think fit to transfer the Cause in Terms of the said Minute (which the Lord Ordinary is hereby authorized to amend, if necessary), he shall pronounce an Interlocutor holding the Cause as transferred against the Party or Parties named in such Minute or amended Minute, and the Cause shall be taken to be transferred accordingly.

Procedure in lieu of Action of Wakening and Transference.

157. Where according to the existing Practice a Cause would require to be wakened in order to its being proceeded with, and also to be transferred against any Party or Parties, it shall be competent to any Party who might have instituted a Summons of Wakening and Transference to enrol the Cause before the Lord Ordinary, and to lodge a Minute craving a Wakening of the Cause and a Transference thereof against such Party or Parties, and after such Procedure by Intimation and Service as is herein-before directed with respect to Motions for Wakening and Transference respectively, the Lord Ordinary may pronounce an Interlocutor holding the Cause as wakened, and either in the same or in an Interlocutor to be subsequently pronounced, as Justice may require, also transfer the Cause against the Parties named in such Minute.

Transference where Process is in the Inner House.

Parties may appear voluntarily, and be sisted.

158. It shall be lawful, where the Process is in the Inner House, to apply by Minute to the Division of the Court in which the Cause depends for a Transference of the Cause in manner herein-before provided against any Party or Parties named in such Minute; provided that nothing herein contained shall prevent the Lord Ordinary or the Court from sisting any Person, upon his own Application by Minute, as a Party to the Cause, where such Person is according to the existing Practice entitled to be sisted as Representative, Trustee, or Guardian, or in any other Relation to any Party who shall be already a Party to the Suit, or who shall have died during the Dependence thereof, and any such Application to be so sisted may lawfully be combined with an Application for Wakening.

PART VI.

Procedure in Absence and Reponing.

And with respect to the Reponing of Parties against whom Decrees have been obtained in Absence, and the Assessments of Claims for arbitrary Sums of Damages and Debts of unascertained Amount, be it enacted as follows:

After Appearance entered Decree to be held as pronounced in foro.

159. Every Decree to be pronounced after an Appearance has been lodged for any Defender shall be taken to be a Decree in foro contradictorio as against such Defender, although Defences or Answers may not have been lodged on his Behalf; and after Extract thereof, such Decree shall not be liable to be opened up as a Decree in Absence by Reduction or Suspension.

Parties may be reponed against Decree in Absence.

160. Any Party wishing to be reponed against a Decree pronounced in Absence may apply to the Division of the Court in which the Cause depends, at any Time before Extract, by a Reclaiming Note, accompanied with the Defences, Answers, or other Paper required; when the Court, if satisfied that the Defender has some reasonable Defence on the Merits of the Action, may remit to the Lord Ordinary to repone the Party, on Payment of such Expenses as his Lordship may think reasonable, and all after Proceedings and Interlocutors shall be held to be in foro. Similar Procedure may be had for Relief against a Decree pronounced against a Party in the Outer House for default in lodging Defences or Answers after Appearance has been entered, or for Failure to Implement any Order; and such Reclaiming Notes shall not be received by the Inner House Clerks unless accompanied with the Defences, Answers, or other Paper required.

In case of Non-appearance, Damages and Amount of illiquid Debt to be assessed.

161. It shall not be competent hereafter in any Action or Proceeding in the Court of Session to grant Decree for an arbitrary or random Sum of Damages, or for any Debt other than Debts on open Account, the Amount of which has not been ascertained; but in all such Cases, where Judgment is moved for in Absence or by Default, the Lord Ordinary or the Court shall in the first place find the Defender liable to the Pursuer generally in respect of such Damage or Debt, and shall thereupon proceed to assess the Damages, or to ascertain the Amount of Debt by an Inquiry before himself, or by a Remit to One of the Examiners of Court for that Purpose.

Procedure at Inquiry. Defender may appear, and lead Evidence in mitigation.

162. In either Case a Diet of Inquiry shall be appointed, of which Intimation shall be made to the Defender or his known Agent; at which Diet the Pursuer shall adduce such Evidence as he may think needful of the Extent of the Damage sustained by or the Amount of the

the Debt due to him, as the Case may be; and the Defender may attend such Diet, and may for that Purpose, at any Time before the Inquiry has been commenced, enter Appearance as of course, or with Leave of the Lord Ordinary or the Examiner at any Time before the Conclusion of the Inquiry, and may thereupon lead Evidence in abatement of the Pursuer's Claim or in mitigation of Damages, but shall not be at liberty to deny Liability, or to maintain any Defence which ought to have been expressly pleaded; and the Defender, by appearing at the Diet of Inquiry, shall be held to have waived his Right to defend upon any other Ground, or to have the Decree to be pronounced in the Action reduced, or otherwise opened up as a Decree in Absence.

Judgment after Inquiry to assess Damages or Debt.

163. No Record shall be kept of the Evidence adduced at any such Inquiry as aforesaid. Where the Inquiry is before an Examiner the Amount to which the Pursuer is entitled, whether as for Damages or in Payment of Debt, or partly for Damages and partly for Debt, shall be certified to the Lord Ordinary in One Sum. The Lord Ordinary shall, in respect of the Inquiry before himself, or of the Examiner's Certificate, as the Case may be, give Judgment for the Amount so ascertained with Expenses; and his Judgment shall not in any such Case be liable to be reduced or opened up as a Decree in Absence, unless the Defender shall satisfy the Lord Ordinary or the Court that he has some reasonable Ground of Defence involving other Matters than the mere Amount of the Damage or Debt, and then only upon Payment of the Pursuer's taxed Expenses.

Protestations for not enrolling Summons or Bill.

164. In case the Pursuer of any Summons shall fail to lodge the same, with a Condescendence or special Endorsement in lieu thereof, for Enrolment, and in case the Pursuer of any Bill shall fail to lodge the same for Enrolment before the Expiration of the Induciæ thereof, Protestation may be put up by the Defender in the Minute Book of the Court of Session; and the Extract thereof shall contain a Decerniture for *Three Pounds Three Shillings* of Protestation Money as Expenses.

Reponing against such Protestation.

165. The Pursuer may be reponed against such Protestation at any Time not later than Ten Days after the same shall have been given out for Extract, whether Extract shall have issued or not, by lodging his Summons and Condescendence, or special Endorsement in lieu thereof, or Bill of Complaint, in the Hands of the Clerk for Enrolment, accompanied with the Receipt of the Defender's Agent for the said Sum of *Three Pounds Three Shillings* of Protestation Money, or by consigning the Money in the Hands of the Clerk, for the Use of the Defender's Agent, and payable to him on Demand; provided also,

also, that it shall not be competent to put up Protestation for not insisting after Defences have been lodged.

Decrees by Default.

166. Nothing herein contained shall prejudice the Right of either Party to move for and obtain Decree against the opposite Party for Default in prosecuting or defending the Action after giving Notice of Motion to that Effect, pursuant to an Order of the Lord Ordinary.

PART VII.

Appeals from Inferior Courts.

And with respect to the Review of the Proceedings of Inferior Courts, before Extract thereof, be it enacted, as follows:

Advocations abolished.

167. The Process of Advocation shall be and the same is hereby abolished.

Proceedings in lieu of Advocation ob contingentiam.

168. In lieu of Advocations of Actions and Proceedings in Inferior Courts ob contigentiam of a Process in the Court of Session, it shall be lawful for the Party desiring to remove any such Action or Proceeding to the Court of Session, to lay before the Lord Ordinary, or the Division of the Court in which such Court of Session Process shall actually be at the Time, a Copy of the Inferior Court Record (or such Papers as may have been lodged), and of the Interlocutors in the Cause, certified by the Clerk of the said Inferior Court, and to move for the Transmission of the Inferior Court Process to such Court of Session Process, for the Purpose of Conjunction; and if upon Consideration of the Record the said Lord Ordinary or Division of the Court shall be of opinion that there is such Contingency as would render a Conjunction of the Processes expedient at that Stage, he or they shall grant Warrant to the Clerk of the Inferior Court Process for the Transmission thereof, and shall upon such Transmission being made conjoin the Processes, which shall thenceforth be proceeded with in all respects as if both Actions had originated in the Court of Session.

Finality of Orders in such Cases.

169. The Decision of the Lord Ordinary or the Court, as the Case may be, upon any such Motion for Transmission and Conjunction, shall be final at that Stage; provided that in the event of the Application being refused it shall be competent for either Party to renew the Motion at any subsequent Stage of the Cause.

Appeal of final Judgments of Inferior Courts.

170. When a final Judgment or Interlocutor has been pronounced by any Inferior Court or Judge in a civil Cause, such Cause may, subject to the Exceptions herein-after specified, be removed to the Court

Court of Session, and the whole Judgments and Interlocutors pronounced therein by such Inferior Court or Judge submitted to the Review of the Court of Session by Appeal in manner herein-after provided; which Appeal may be taken at any Time before Extract of such final Judgment or Interlocutor.

Restriction upon Appeals at the Defender's Instance.

171. When the Judgment of the Inferior Court or Judge is against the Defender, and is a Judgment for Money only, and the Sum awarded or decerned for, inclusive of Interest, but exclusive of Expenses, does not exceed Twenty-five Pounds, it shall not be competent for such Defender to appeal to the Court of Session; nor shall it be competent for the Pursuer to appeal in such Case, unless the Amount of Money which in the Action he sought to recover, after giving Effect to any Abandonment or Restriction of his Demand which he may have made in the Inferior Court, shall exceed by at least Twenty-five Pounds the Sum awarded or decerned for in his Favour, inclusive of Interest, but exclusive of Expenses as aforesaid, or unless he in his Action concludes for some other Remedy besides or alternatively with a Judgment for Money.

Restriction as to Appeals by the Pursuer.

172. If the Pursuer seeks in the Action to recover Money only, and that to an Amount not exceeding Twenty-five Pounds, inclusive of Interest to the Date of the Action, but exclusive of Expenses, and the Effect of the Judgment is to assoilzie the Defender or dismiss the Action, the Pursuer shall not be at liberty to appeal to the Court of Session. In estimating the Amount sought to be recovered with reference to the Matter of Appeal, Effect shall be given to any Restriction or Abandonment of his Demand by the Pursuer, and also to any Payment to account, and any counter Claim or Set-off admitted by him.

Effect to be given to Restriction of Actions.

173. The Pursuer may at any Time, and even after final Judgment by the Inferior Court or Judge, restrict and reduce his Demand to a Sum not exceeding Twenty-five Pounds, inclusive of Interest, but exclusive of Expenses, to the Effect of rendering it incompetent for the Defender to take or longer to insist in an Appeal to the Court of Session, and the Defender may at any Time after final Judgment in the Inferior Court and to the Effect of rendering it incompetent for the Pursuer to take or longer to insist in an Appeal to the Court of Session, tender Payment of as much Money as will reduce the Difference between the Sum awarded and decerned for by such Judgment, and the Sum demanded by the Pursuer, to an Amount not exceeding Twenty-five Pounds: Provided always, that if such Restriction or Tender shall be made after Expenses have been incurred in an Appeal duly taken, it shall be held to include a Tender

of such Expenses, which shall be awarded, taxed, and decerned for in the Court of Session accordingly.

Form of Appeal from Inferior Courts.

174. An Appeal to the Court of Session may be taken under this Act by a Note of Appeal written at the End or on the Margin of the final Interlocutor or Judgment of the Inferior Court or Judge, or of any Note thereto annexed, and such Note of Appeal may be in the following or similar Terms:

'The Pursuer [*or* Defender *or other Party*] appeals the whole 'Cause to the First Division of the Court of Session.'

And the said Note shall be signed by the Appellant or his Agent, and shall bear the Date on which it was signed, which it may be at any Time before Extract of such final Judgment or Interlocutor.

Effect of Appeal from final Judgment.

175. Such Appeal shall be effectual to remove the Cause to the Court of Session, and to submit the whole Interlocutors and Judgments pronounced therein to the Review of that Court, not only at the Instance of the Appellant, but also at the Instance of every other Party in the Cause, to the Effect of enabling the Court to do complete Justice, without Hindrance from the Terms of any Interlocutor in the Cause, and without the Necessity of any counter Appeal; and an Appellant shall not be at liberty to withdraw or abandon an Appeal without Leave of the Court; and an Appeal may be insisted in by any Party in the Cause, other than the Appellant, in the same Manner and to the like Effect as if it had been taken by himself.

Notice of Appeal to be given to opposite Party.

176. The Appellant shall give Notice of his Appeal to the other Party within Four Days after signing the Note of Appeal, it being provided that any Omission or Failure to give such Notice shall not invalidate the Appeal, but that the Court of Session may give such Remedy for any Disadvantage or Inconvenience thereby occasioned as may in the Circumstances appear proper.

Transmission of Process and Printing.

177. Within Four Days after the Note of Appeal is signed the Clerk of the Inferior Court shall transmit the Process to One of the Clerks of the Division of the Court to which the Appeal is taken, or his Assistant, who shall forthwith cause the Appeal to be enrolled and published in the Daily Roll of Causes depending in the Court of Session (in manner specified in Part XI. of this Act); and the Appellant shall forthwith cause the Record, and the Interlocutor or Judgments and Note of Appeal, and the Notes of Evidence, if any, and whatever else may be necessary to enable the Court of Session to dispose of the Appeal, to be printed and boxed to the Court, and shall deliver Six Copies of such Print to the opposite Party or his Agent; and unless the Record and other Matters specified as aforesaid shall be printed and

and boxed before the Hearing (being at least Eight Days after the first Enrolment), the Appeal shall be dismissed, and the Interlocutors complained of shall be affirmed; without Prejudice, however, to the Power of the Court to direct at the Hearing that any Matter inadvertently omitted to be printed shall be supplied by an additional Print, provided that the Costs occasioned by any Adjournment of the Hearing for that Purpose shall be borne by the Appellant; provided also, that no Objection shall be taken to any Appeal on the Ground of the Omission to print any Matter other than the closed Record and final Interlocutor, if the Parties shall have consented to dispense with the printing thereof; provided also, that, subject to the aforesaid Provisions with respect to printing, any Error, Defect, or Informality in an Appeal or the Mode in which it has been taken may be corrected at any Time, and without any Award of Expenses, and no Appeal shall be refused or dismissed, or the Cause retarded, on account of any such Error, Defect, or Informality.

Hearing of Appeals.

178. All Appeals under this Act, other than those provided for under Section One hundred and eighty-five hereof, shall be sent to a Roll to be kept in each Division for such Appeals only, and which shall be called the Roll of Appeals; and the Appeals enrolled in each Division respectively shall be entered in such Roll in the Order of their Enrolment, and shall be heard in that Order; and each Division shall on the First Sederunt Day of each Week publicly announce the Day or Days of the following Week upon which the Causes in the Appeal Roll are to be heard, and the said Roll shall on such Day or Days take Precedence of all other Proceedings.

Judgment on Appeals to be on the Merits.

179. The Court shall pronounce Judgment on the Merits of every Cause brought before it by Appeal under this Act, according to the Law truly applicable to the Case, though not pleaded on the Record, and according to the very Truth and Justice of what shall appear to the Court to be the real Controversy between the Parties, without being hindered by Defects, Errors, or Informalities in the Procedure or Pleadings; and all Amendments of any such Defects, Errors, or Informalities as it may be necessary to amend in order to enable the Court so to decide, may be made at any Time; and any Inferior Court Summons or Record may be amended at any Time and to such Extent as may be necessary to enable the Court to decide in the existing Action the Matter truly in controversy between the Parties.

Inquiry in point of Fact how to be made.

180. Should any Inquiry in point of Fact be necessary to enable the Court to pronounce Judgment in any Appeal under this Act, such Inquiry shall take place before One of the Examiners of Court, unless

unless both Parties shall concur in moving for a Trial by Jury, in which Case the Court shall determine whether the whole or what Averments in the Record shall be remitted for Trial.

Appeals from Interlocutor allowing a Proof.

181. In all Causes originating in the Inferior Courts, in which the Claim is in Amount above Fifty Pounds, as soon as an Order or Interlocutor allowing a Proof has been pronounced in the Inferior Court (unless it be an Interlocutor allowing a Proof to lie in retentis, or granting Diligence for the Recovery and Production of Documents), it shall be competent to either of the Parties to remove the Process into the Court of Session by Appeal in manner herein-before provided; and in case no such Appeal shall be presented, and the Parties shall proceed to Proof under the Interlocutor of the Inferior Court, they shall be held to have waived their Right of Appeal to the House of Lords against any Judgment which may thereafter be pronounced by the Court of Session, in so far as by such Judgment the several Facts established by the Proof or by any additional Proof that may be allowed in the Court of Session shall be found and declared.

Disposal of such Appeals.

182. All Appeals from Interlocutors allowing a Proof in the Inferior Court shall (except as regards the Finality of any Findings in Fact that may be pronounced by the Court of Session) be dealt with in all respects in the same Manner as other Appeals under this Act: Provided always, that where the Parties or either of them shall move for a Trial by a Jury, or a Proof before One of the Examiners of Court, either upon the whole Record, or upon any particular Averments therein, such Trial or Proof may be directed at the First Enrolment of the Cause.

Hearing of Appeal not to be delayed.

183. No Appeal shall lose its Place in the Roll on account of the Necessity of making any Amendment or of taking Evidence, but the Hearing shall be resumed so soon as the Evidence is taken or an Amendment made.

Remit to Outer House prohibited.

184. It shall be incompetent to remit any Appeal under this Act to the Outer House.

Lord President may transfer Appeals to a Quorum of the Outer House Judges sitting as a Division.

185. The Roll of Appeals of each Division, showing the whole Causes standing thereon undisposed of, shall be constantly exhibited during Session upon the Wall of the Court; and it shall be lawful to the Lord President, should the due Despatch of the Business of said Roll appear to him to require it, to direct the Lords Ordinaries to sit together as a Court, of which Three shall be a Quorum, on such Days and during such Hours as he may appoint, having due Regard to

to the Business of the Outer House for hearing and deciding Causes in the said Roll of Appeals; and the Lords Ordinaries may sit together as a Court accordingly, upon the verbal Requisition of the Lord President, without the Necessity of any written Order or Authority; and any Three Lords Ordinaries shall form a Quorum; and such Court shall, for the Purpose of hearing and disposing of Appeals under this Act, have the same Jurisdiction, Power, and Authority as either Division of the Court of Session, and their Judgments and Orders shall be regarded as Judgments and Orders of the Inner House of the Court of Session in the Division in which the Appeal depends, and shall be signed by the Senior Judge present, in Presence of the others; and any Depute or Assistant Clerk of Session may officiate as Clerk in said Court, and shall be bound to do so when required by the Lord President; and the Causes to be heard and determined by such Court shall be selected by the Lord President; and such Court may lawfully set for the Despatch of such Business as aforesaid during Vacation, as well as during Session.

Provisions of this Part of the Act to apply to depending Advocations.

186. The whole Provisions of Part VII. of this Act shall so far as possible apply to all Advocations in dependence before the Court of Session at the Commencement of the Act, and all such Advocations shall be inserted in the Roll of Appeals herein-before directed to be kept, according to their Dates, and shall be heard and disposed of as by this Act directed with respect to Appeals.

Appeals may be taken with Leave of the Inferior Court.

187. Notwithstanding any of the Provisions herein contained, an Appeal under this Act shall be competent in any Cause whatever originating in any Inferior Court, and at any Stage of such Cause after the Record is closed, upon Matter of Law or Competency, if proceeding upon a Certificate, written on the Interlocutor Sheet by the Sheriff, Sheriff Substitute, or other Inferior Judge, that an Appeal in that Cause and at that Stage is in his Opinion reasonable and expedient, and an Appeal proceeding upon such Certificate may be taken in manner herein-before provided, and shall have all the Effects allowed to any Appeal under this Act, provided the Note of Appeal is signed within Eight Days of the Date of such Certificate.

Judgment of Court on Appeal to specify the Facts established by Proof; and such Findings in Fact not to be subject to Review in

188. Where a Judgment pronounced in any Inferior Court disposing of any Matter of Fact upon which Proof has been allowed and taken shall be brought under the Review of the Court of Session, by Appeal, Suspension, or otherwise, the Court of Session shall, in reviewing the Judgment proceeding on such Proof, distinctly specify in their Interlocutor the several Facts material to the Case which they find to be established by the Proof, or by any additional Proof which shall have been taken in the Court of Session, and shall express

the House of Lords.

express how far their Judgment proceeds on the Matter of Fact so found, or on Matter of Law, and the several Points of Law which they mean to decide; and the Judgment of the Cause thus pronounced shall be subject to Appeal to the House of Lords in so far only as the same depends on or is affected by Matter of Law, but shall, in so far as relates to the Facts, be held to have the Force and Effect of a Special Verdict of a Jury finally and conclusively fixing the several Facts specified in the Interlocutor.

Exception where Court shall have directed a Trial by Jury.

189. When the Court of Session shall, in reviewing the Decisions of Inferior Courts, have directed a Trial by a Jury on the whole or Part of the Record, all Proceedings for setting aside the Verdict shall be taken in the same Form and with the same Right of Appeal as in Cases originating in the Court of Session.

Regulation of interim Possession pending Appeal to the Court of Session.

190. In all Cases where the Judgment of any Inferior Court shall be brought under the Review of the Court of Session by Appeal, Suspension, or otherwise, it shall be competent to the Inferior Court to regulate in the meantime, on the Application of either Party, all Matters relating to interim Possession, having due Regard to the Manner in which the mutual Interests of the Parties may be affected in the final Decision of the Cause; and such interim Order shall not be subject to Review, except by the Court at the Hearing of such Appeal or other Proceeding; reserving to the Court full Power at the Hearing of such Appeal, Suspension, or other Proceeding to give such Orders and Directions in respect to interim Possession as Justice may require.

Exclusion of Review by Appeal in Actions of Removing.

191. When any Judgment shall be pronounced by an Inferior Court ordaining a Tenant to remove from the Possession of Lands or Houses, the Tenant shall not be entitled to bring such Judgment under Review by Appeal, but only by a Note of Suspension, upon Consignation of the Expenses deemed for in such Inferior Court.

Provision as to Remits to Inferior Courts.

192. Where the Judgment of any Inferior Court shall be brought under Review of the Court of Session by Appeal, Suspension, or otherwise, it shall be competent to remit the Cause to the Inferior Court, with Instructions how to proceed; but no such Remit shall be made without Hearing the Appellant or Complainer, except in the Case of a Suspension of a Decree in Absence.

Appeal to the Court of Justiciary.

193. It shall be competent in all Civil Actions instituted in the Inferior Courts, where the Value of the Action is under Fifty Pounds, and also in all Actions and Prosecutions for pecuniary Penalties in the Inferior Courts where the Penalty sued for is less than Fifty Pounds

Pounds (including Prosecutions in Cases where the Court is empowered to award a Sentence of Imprisonment in default of Payment), to appeal to the Circuit Court of Justiciary, or where there are no Circuit Courts, then to the High Court at Edinburgh, against the final Decree or Sentence pronounced on any such Action or Proceeding upon any Matter of Law arising in such Action or Proceeding; and such Appeal may be taken in the Manner and Form provided by this Act with respect to Appeals to the Court of Session; but it shall not be necessary to print the Proceedings in any such Appeal.

PART VIII.

Suspensions and Bill Chamber Procedure.

And with respect to Procedure by way of Suspension in the Bill Chamber, be it enacted, as follows:

Suspensions of Decrees in foro of Inferior Courts to be brought in Bill Chamber.

194. When the Judgment of any Inferior Court pronounced in foro, which may according to the existing Practice be brought under the Review of the Court of Session by Suspension, with the Exception of any Judgment pronounced in Actions of Removing, is intended to be brought under Review in that Form, it shall be competent, on Consignation of the Expenses decerned for in the Inferior Court, to suspend the Decree and any Diligence or Proceedings following thereon, by lodging in the Bill Chamber a written Note of Suspension, signed by an Agent in the Court of Session, reciting the Import and Effect of the Decree sought to be suspended, and setting forth in the Prayer thereof the Remedy craved, the Presentment of which Bill, on being certified by the Clerk of the Bills or his Assistant, shall operate as an interim Sist of Diligence; and on Consignation of the Amount of Expenses decerned for in the Inferior Court, as instructed by the Charge or other reasonable Evidence, the Clerk shall issue his Certificate accordingly, and the Note shall thereupon be laid before the Lord Ordinary on the Bills, and shall be passed; and the Clerk of the Bills shall thereupon certiorate the Clerk of the Inferior Court of the passing of such Note, who shall forthwith transmit the Process to the Bill Chamber; and Intimation of such Note and Interlocutor passing the same shall be made by a Messenger-at-Arms in common Form.

After Note passed, Case to go to Roll of Appeals.

195. As soon as the Inferior Court Process shall have been transmitted to the Bill Chamber, it shall be competent for either Party to transmit the Process to the Inner House Clerk, for Enrolment in the

Roll of Appeals of the Division of the Court to which such Bill of Suspension shall be appropriated by the Complainer's Indorsement; and after such Enrolment the Case shall be dealt with in all respects as is herein provided with respect to Appeals from Inferior Courts.

Suspensions of Decrees in Absence to be brought in the Bill Chamber.

196. It shall be lawful for any Party to bring a Suspension of any Decree in Absence pronounced in the Court of Session by lodging in the Bill Chamber a Note of Suspension of the Form and Effect of Notes of Suspension herein-before allowed to be brought of Decrees in foro of Inferior Courts, together with Defences or Answers to the Summons or Bill in the original Action; and upon Consignation in the Hands of the Clerk of the Bills of such Expenses as have been decerned for the Clerk shall issue his Certificate of Presentment, which shall operate as a Sist of Deligence; and the Lord Ordinary on the Bills shall, if satisfied that the Suspender has some reasonable Ground for claiming Relief against such Decree on the Merits of the Matter in dispute, forthwith pass the Note, and shall at the same Time grant Warrant for the Transmission of the Proceedings in the original Action to the Bill Chamber, which Warrant shall be intimated by the Clerk of the Bills to the Extractor or Keeper of the Records, who shall transmit the Proceedings accordingly; and the said Lord Ordinary shall have Power to award to the Pursuer in the original Action such Part of the Expenses consigned as may be just; and Intimation of such Note of Suspension and Interlocutor passing the same shall be made by a Messenger-at-Arms in common Form; and as soon as the Proceedings in the original Action have been transmitted, either Party may enrol the Case before the Judge who pronounced the Decree, and the like Proceedings may be had in such Suspension as if Defences had been lodged in the original Action.

Provision where Note refused.

197. If the Lord Ordinary on the Bills shall not be satisfied that the Complainer in such Note of Suspension has some reasonable Ground for claiming Relief on the Merits of the Question in dispute, he shall refuse the Note, and his Interlocutor refusing the same shall be final, and Execution may immediately proceed upon the Decree in the original Action; and no Second Bill of Suspension shall be allowed upon the same Grounds; but without Prejudice to the Right of the Party to claim Relief by Suspension and Interdict against any Illegality in the Enforcement of the Decree by Diligence; provided also, that, notwithstanding of the Refusal of any such Suspension, it shall be lawful for the Defender against whom Decree has been obtained in Absence as aforesaid to institute Proceedings for the Reduction thereof as a Decree in Absence.

198. All

Other Bill Chamber Cases to be instituted by Bill.

198. All Proceedings for Suspension, or Suspension and Interdict, or Suspension and Liberation, other than those herein-before specified, may be instituted by lodging in the Bill Chamber a written Bill, with a Condescendence annexed, according to the Form prescribed in Part III. of this Act; and such Bill of Suspension or otherwise shall be received and marked by the Clerk in the Bill Chamber, and be forthwith laid before the Lord Ordinary on the Bills, who shall pronounce such Order or Interlocutor thereon as may be just; and such Bill, and Order or Interlocutor thereon, shall be served on the opposite Party by a Messenger-at-Arms in common Form, and shall be answered within the Time allowed by the Lord Ordinary; and in case the Lord Ordinary shall pass the Bill, either Party may enrol the Case before the Lord Ordinary to whom the Case has been appropriated by the Complainer's Endorsement, who shall, after allowing such Amendment and Revision of the Pleadings as he may think necessary, pronounce an Interlocutory closing the Record, and appointing the same to be printed at the mutual Expense of the Parties: Provided always, that the Practice as to Caution, and the Power to reclaim to the Inner House in such Cases, shall remain as at present; and it shall not be necessary to affix the Signet to any Note or Bill of Suspension, Interdict, or Liberation presented in the Bill Chamber.

PART IX.

Summary Petitions.

Summary Petitions to be brought before the Lords Ordinaries.

And with respect to Procedure by way of Petition or summary Application, be it enacted as follows:

199. All summary Petitions and Applications to the Lords of Council and Session which are not incident to Actions or Causes actually depending at the Time of presenting the same shall be brought before One of the Lords Ordinaries officiating in the Outer House, who shall deal therewith and dispose thereof as to him shall seem just; and in particular all Petitions and Applications falling under any of the Descriptions following shall be so enrolled before and dealt with and disposed of by the Lord Ordinary, and shall not be taken in the first instance before either of the Two Divisions of the Court; viz.

1. Petitions and Applications under any of the various Statutes now in force relative to Entails:
2. Petitions and Applications under any of the General Railway Acts or under the Lands Clauses Consolidation (Scotland) Act, 1845, or under any Local or Personal Act:

3. Petitions and Applications relative to Money consigned under any Statute or Law, subject to the Order, Disposal, or Direction of the Court of Session:
4. Petitions and Applications for the Appointment of Judicial Factors, Factors loco tutoris or loco absentis, or Curators bonis, or by any such Factors or Curators for extraordinary or special Powers, or for Exoneration or Discharge:
5. All Petitions, Applications, and Reports under the Act of the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter Fifty-one, intituled "An Act for the better "Protection of the Property of Pupils, absent Persons, and "Persons under mental Incapacity in Scotland."

Answers to such Petitions.

200. Where Appearance shall be made and Answers lodged to any Petition, whether brought in the first instance before the Lord Ordinary or before One of the Divisions of the Court, a Record shall be made up and closed in the same Manner as is herein provided with respect to Actions instituted by Bill of Complaint.

Inquiry and Judgment upon summary Petitions.

201. The Lord Ordinary before whom any Petition, Application, or Report shall be enrolled or brought shall have full Power to decide and dispose of the same, after making such Investigation and requiring such Assistance from Professional Persons or Persons of Science and Skill as he shall judge proper; and his Judgment upon the Merits shall be subject to Review by Reclaiming Note, but it shall not be competent to bring under the Review of the Court any Interlocutor pronounced by the Lord Ordinary upon any such Petition, Application, or Report as aforesaid, with a view to Investigation and Inquiry merely, and which does not finally dispose thereof upon the Merits; and the Judgment of the Lord Ordinary granting or refusing such Petition or Application, or disposing of any such Report, shall be effectual as a Judgment of the Court upon the same, but shall not be subject to Appeal, unless the same shall be brought under Review as herein-before provided; but nothing herein contained shall affect the Right of any Party interested to apply for the Recal of any Appointment or Order pronounced upon such Petition, Application, or Report which may competently be made the Subject of Recal according to the existing Practice.

Lord Ordinary may report.

202. In Cases of Urgency the Lord Ordinary may report verbally to the Division in which the Petition or Application depends; and in such Cases the Lord Ordinary shall sit along with the Judges in such Division for the Time, but shall not be entitled to vote in the Division; and shall thereafter give Judgment in conformity with the Opinion and Direction of the said Division.

203. Any

203. Any Petition whatever which, according to existing Usage, falls to be presented in One of the Divisions of the Court, may in Vacation be presented to and laid before the Lord Ordinary on the Bills, who is hereby authorized and empowered to make any interim Appointment, interim Order for Payment, or Order ad factum præstandum, or for Inquiry, which the Justice of the Case may require; and it shall be lawful for either of the Divisions of the Court to remit any Petition depending before them at the Termination of the Session (whether on Reclaiming Note or otherwise) to the Lord Ordinary on the Bills, with general Powers to make any such interim Appointment or Order as aforesaid, in case Circumstances should occur to render such Order necessary or expedient.

Lord Ordinary on Bills to have interim Jurisdiction in Vacation in Petitions appropriated to Inner House, &c.

PART X.

Inner House Procedure.

And with respect to the Review of Judgments pronounced by the Lords Ordinaries, and the Forms of Procedure before the Divisions of the Court, be it enacted as follows:

204. Reclaiming Notes to the Inner House against Interlocutors of Lords Ordinaries (Schedule F.) shall not hereafter contain any specific Prayer, but shall bear in general Terms that the Interlocutor reclaimed against is submitted to Review, and pray for Recal thereof and for general Relief; and it shall be competent to present a Reclaiming Note against any Interlocutor of a Lord Ordinary at any Time after the same is pronounced, and before Extract of an Interlocutor whereby the whole Cause has been decided in the Outer House; but after the Process has been sent to the Extractor for Extract of any such Interlocutor as aforesaid, then such Interlocutor and also the whole Interlocutors of the Lord Ordinary not previously reclaimed against shall be final.

Form of Reclaiming Notes. Schedule F.

205. Every Reclaiming Note, whether presented before or after the whole Cause has been decided in the Outer House, and in whatever Terms the same may be expressed, shall have the Effect of subjecting to the Review of the Inner House the whole of the Interlocutors prefixed thereto, and against which it bears to be taken, and also the whole of every prior Interlocutor of the Lord Ordinary, of whatever Date, not only at the Instance of the Party reclaiming, but also at the Instance of all the other Parties in the Cause, to the Effect of enabling the Court to do complete Justice, without Hindrance from the Terms of any Interlocutor which may have been pronounced by the Lord Ordinary, and without the Necessity of any counter

Effect to be given to Reclaiming Note against final Judgment.

Reclaiming Note; and after a Reclaiming Note has been presented the Reclaimer shall not be at liberty to withdraw it without the Consent of all the other Parties in the Cause; and if he shall not insist therein, any other Party in the Cause may do so in the same Way as if it had been presented at his own Instance.

Amendment of Reclaiming Notes.

206. Any Error or Default in the Terms of a Reclaiming Note may be amended at any Time, and no Reclaiming Note shall be refused, or the Cause delayed or hindered, on account of any such Error or Defect.

Definition of final Judgment in Outer House.

207. It shall be held that the whole Cause has been decided in the Outer House when an Interlocutor has been pronounced by the Lord Ordinary which expressly bears to be a Decision of the whole Cause, or which, either by itself or taken along with previous Interlocutors, leaves nothing further to be decided in the Cause, although Judgment shall not have been pronounced upon all the Points or Questions raised in the Cause; but it shall not prevent a Cause from being held as so decided that Expenses, if found due, have not been taxed, modified, or decerned for; and where there are more than One Pursuer or more than One Defender in a Cause, such Cause shall not be held to have been finally decided until it shall have been so decided with respect to all of them.

Reclaiming Note against interlocutory Judgments not to have the Effect of removing the Cause, unless Lord Ordinary so direct.

208. A Reclaiming Note presented before the whole Cause has been decided in the Outer House may be brought by lodging such Note with One of the Clerks of the Division of the Court in which the Cause depends, without lodging any other Paper therewith, and such Note shall not have the Effect of removing the Cause or the Process from the Outer House, or of staying Procedure before the Lord Ordinary, or of excusing Obedience to the Interlocutor reclaimed against, unless the Lord Ordinary shall otherwise direct, upon Motion made for that Purpose, and the Decision of the Lord Ordinary on such Motion shall be final.

Provision for enabling Court to pronounce Judgment in such Cases.

209. Failing such Direction as aforesaid, the Process shall remain, and the Cause shall proceed in the Outer House in all respects as if no such Reclaiming Note had been presented, until it is advised by the Inner House, when the Court shall pronounce such Judgment or Order as it shall see fit; and when the Cause shall be called for Hearing in the Inner House on such Reclaiming Note, the Process shall, if required by either Party or by the Court, be delivered to the Clerk of the Process in the Inner House, but shall nevertheless be considered as still in the Outer House; only the Interlocutor Sheet shall be delivered to such Inner House Clerk, that the Judgment of the

the Court may be written thereon; and it shall not be necessary that any Cause coming before the Inner House on any such Reclaiming Note as aforesaid shall pass through the single Bills, but the same shall be put out in the Rolls for Hearing without any written Order or Interlocutor being necessary for that Purpose.

After final Judgment Cause not to be remitted.

210. After the whole Cause has been decided in the Outer House, within the Meaning of this Act, it shall not be lawful for the Inner House to remit the same back to the Outer House, but the Cause, when taken to the Inner House, after having been so decided in the Outer House, even though the Interlocutor of the Lord Ordinary or any of the Procedure shall be held to have been incompetent, shall remain in the Inner House until it shall be finally and completely decided in the Court of Session.

Provision as to Decrees for Expenses.

211. It shall not be lawful to reclaim against any Decree for Expenses pronounced by the Lord Ordinary after the whole Cause has been decided in the Outer House, unless the Merits of the Cause or of some Part thereof be also brought under Review of the Inner House.

Final Decree in the Outer House may be extracted after Twenty-one Days.

Provision as to interim Extract of interlocutory Decrees.

212. It shall not be lawful to extract any Decree or Interlocutor, whereby the whole Cause has been decided in the Outer House, within the Meaning of this Act, until the Elapse of Twenty-one Days from the Date thereof; and it shall not be lawful to extract any interim Decree or Act and Warrant pronounced in the Outer House until the Elapse of Twenty-one Days from the Date thereof, without special Allowance; and it shall not be lawful to extract any Act and Warrant pronounced by a Judge upon any Summary Petition, or any Decree or Order pronounced by a Judge in the Bill Chamber, until the Elapse of Eight Days from the Date thereof, without special Allowance; provided also, that where Extract shall be allowed to go out ad interim within a shorter Period than is herein-before specified, in respect of Urgency or otherwise, the Reason for such special Allowance shall be specified in the Interlocutor.

Certain Decrees to be extractible without special Allowance.

213. Every Decree for Expenses, and every interim Decree or Act and Warrant, granted during the Dependence of a Process, and which, according to the former Practice, might have been extracted ad interim, if special Allowance to that Effect had been granted by the Lord Ordinary or the Court, shall be extractible ad interim without the Necessity of such special Allowance, unless the Lord Ordinary or the Court shall otherwise direct; and every Decree for Expenses shall be held to include a Decree for the Expense of extracting the same.

 214. In

Inner House may order Repayment of Money, &c. recovered under interim Decree in Outer House.

214. In the event of any Reclaiming Note against an interim Decree or Interlocutor pronounced in the Outer House being presented after such interim Decree has been implemented, it shall be lawful for the Court, in the Interlocutor recalling or altering such interim Decree or Interlocutor, to order the Repayment of any Money recovered in implement thereof, or to pronounce such other Order or Warrant ad factum præstandum as may be necessary in order to give Effect to such Recal or Alteration of the Lord Ordinary's Interlocutor, notwithstanding that the Interlocutor of the Lord Ordinary may have been extracted and put to Execution.

Provision as to lodging Papers on Box Days.

215. Where the Period allowed by this Act for lodging any Report, Production, Pleading, or other Paper shall expire during Vacation or Recess, such Paper shall be returnable on the last Day allowed for lodging the same, if a Box Day, or if otherwise on the next Box Day or Sederunt Day thereafter; and where the Periods of Twenty-one Days and Eight Days within which Extract of certain Decrees, Acts, and Warrants, and Interlocutors, is by this Act prohibited, shall expire on any Day in Vacation or Recess, not being a Box Day, such Period shall be held to be extended so as to include the whole of the next Box Day or Sederunt Day, whichever shall first happen.

Lord Ordinary on the Bills may grant Decree for Default in lodging Paper due on Box Day.

216. The Lord Ordinary officiating on the Bills is hereby empowered to hold a special Sittings on the Second or any subsequent Day which he may appoint after each Box Day in Vacation and Recess, and at such Sittings to grant Decrees in Absence and for Default in lodging Papers due on such Box Day; and for that Purpose the Process may be transmitted from the Office of any Clerk in the Court of Session to the Office of the Clerk of the Bills: Provided always, that the Lord Ordinary on the Bills shall have the same Power of granting Prorogations and of receiving any Paper which the Lord Ordinary or the Court would have had if such Motion for Decree had been made in Time of Session.

Lord Ordinaries not to report Causes.

217. The Practice of reporting Causes to the whole Court and the Practice of reporting Causes and incidental Matters to the Divisions of the Court are hereby abolished; except in so far as relates to the Power herein-before conferred of reporting Questions arising upon Summary Petitions and Applications.

Written Argument abolished.

218. It shall not be lawful for the Lord Ordinary or for the Court to order Argument in Writing in any Action or Proceeding whatsoever.

219. It

Court may order Questions of Difficulty and Importance to be argued before the whole Court.

219. It shall be competed to either Division of the Court, in respect of the Difficulty and Importance of any Cause, or of any Question of Law arising therein, to direct the Cause or any such Question of Law to be argued before the whole Court, and the Cause or Question shall thereupon be argued before a Quorum of the Division in which the Cause depends, in consultation with the Judges of the other Division and the Lords Ordinaries, or so many of them as can conveniently attend (Seven Judges at least being present at such Hearing); and in the Interlocutor appointing such Hearing the Question or Questions of Law on which the Opinions of the Judges of the other Division and Lords Ordinaries are desired shall be stated, or indicated by Reference to the Record; and the consulted Judges present at the Hearing shall communicate their Opinion or Opinions in Writing to the Division; and the Judgment to be pronounced thereupon shall be according to the Opinion of the Majority of the Judges present at the Hearing, and shall bear to be the Judgment of the Division before which the Cause depends, after consulting with the other Judges.

Provision in case of Death or Resignation of Judges after such Hearing.

220. Seven Judges shall be a Quorum for the Purpose of hearing and determining all Matters referred to the whole Court, and it shall not be necessary to direct a Rehearing of any Case or Matter in consequence of the Death or Resignation of any Judge or Judges present at the Hearing before Judgment shall have been pronounced, unless by reason of such Death or Resignation there shall not remain a Quorum for the Determination of such Case or Matter, or that the Judges who have taken part in the Hearing shall be equally divided in Opinion; and in all Cases where the Judges present at the Hearing of any Argument before the whole Court, or where such of them as may eventually be able to take part in the Judgment, shall be equally divided in Opinion, it shall be lawful for the Division before which the Cause depends to order a Rehearing, upon which the same Procedure shall be had as is herein-before provided with respect to any original Hearing before the whole Court.

After Avizandum made Court not to order Hearing.

221. It shall not be competent to direct any Cause or Question to be argued before the whole Court after the Parties have been fully heard by the Division in which the Cause depends, and Avizandum shall have been made upon the Debate, except in the Case of an equal Division of Opinion upon a Special Verdict or Special Case settled at a Trial, as herein-after provided.

In case of Equality, Interlocutor to be allowed to stand, &c.

222. In the event of the Judges being equally divided in Opinion upon any Matter coming before either of the Divisions under a Reclaiming Note or Note of Appeal (including Bankruptcy Appeals), the

the Judgment of the Lord Ordinary or of the Inferior Court shall be adhered to or affirmed. In the event of the Judges being equally divided in Opinion upon the Merits of any Petition or Proceeding coming before such Division in the first instance, Judgment shall be given for the Respondent; and in the event of an equal Division in Opinion upon any incidental Motion such Motion shall be refused.

Provision as to equal Division in Jury Cases.

223. No new Trial shall be granted, and no Verdict of a Jury shall be discharged or set aside, by the Division in which the Cause depends, unless in conformity with the Opinion of a Majority of the Judges of the Division, and in case of equal Division Judgment shall be given in conformity with the Verdict.

Hearing may be ordered in case of equal Division of Opinion upon Special Verdict or Case.

224. In the event of the Judges being equally divided in Opinion upon the Matters submitted to either of the Divisions at the Hearing on a Special Verdict or Special Case settled at a Jury Trial (including in this Provision any Matters of Law arising upon the Record which may have been appointed to be argued along with such Special Verdict or Special Case), the Division may direct a Hearing before the whole Court; and Judgment shall be given in conformity with the Result of such Hearing.

Prorogation of Time for lodging Papers and Reports.

225. The Powers of the Lord Ordinary and the Court in relation to the Prorogation of the Time for lodging Minutes and Reports, and also in relation to the Prorogation of Commissions, shall remain as at present, subject to any Regulations which the Court may hereafter think fit to make by Act of Sederunt; and all such Papers and Matters as aforesaid may, if the Court think fit, be received of Consent after the Expiry of the Period allowed for receiving the same; but nothing herein contained shall be taken to authorize the Extension of the Time for lodging any Paper forming Part of the Record in any Action, except in so far as such Extension of Time may be obtained in the Manner herein-before provided.

PART XI.

Judicial Arrangements.

And whereas some of the Statutes by this Act repealed which relate to the Practice of the Court of Session also contain Provisions relative to the Constitution of the said Court, which have been partially superseded by the Provisions of other Statutes now in force, but it is doubtful how far the general Repeal of such first-mentioned

mentioned Statutes might tend to affect the Constitution of the Court as now established; And whereas it is expedient to make further Provision for the Discharge of the Duties of the Lord Ordinary officiating in the Bill Chamber; be it enacted and declared as follows:

Constitution of the Outer and Inner Houses of the Court.

226. That the said Court shall continue to consist of the Lord President of the said Court, and Three ordinary Lords of Session sitting in the First Division thereof, the Lord Justice Clerk presiding, and Three ordinary Lords of Session sitting in the Second Division thereof, and the Five Ordinary Lords of Session sitting in the Outer House; and that the Junior Judge of the Court of Session for the Time being, sitting in the Outer House, shall in future discharge the Duties of Lord Ordinary in Teind Cases; and that the Duties of Lord Ordinary on the Bills shall in Time of Session be discharged by the Lords Ordinaries in rotation, in such Order as may be prescribed by Act of Sederunt; and shall during the Spring and Autumn Vacations, and the Christmas Recess, be discharged in Rotation by the Six Judges of the Court of Session, who are not also Judges of Court of Justiciary, in the Manner prescribed by an Act of Sederunt of the Eighth Day of August One thousand eight hundred and thirty-nine, or in such other Order or Rotation as the Court may by any Act or Acts of Sederunt hereafter appoint; with Power to all the Judges of the Court of Session, in case of the Death, Resignation, Indisposition, legal Declinature, or necessary Absence of any of the Six Judges in Vacation or Recess, to act in place of such Judge.

Vacancies how to be supplied.

227. When any Vacancy shall occur in either of the Divisions by the Death or Resignation of any of the ordinary Judges sitting therein, such Vacancy shall, unless Her Majesty shall otherwise direct, as after mentioned, be supplied by the Senior Judge in the Outer House taking his Seat in such Division as soon as another Judge lawfully appointed shall have taken his Seat in the Outer House.

Her Majesty, may in certain Cases allow a Judge to be transferred from one Division to the other.

228. It shall be lawful for Her Majesty, Her Heirs and Successors, upon a Vacancy arising by Death or Resignation in either of the Divisions of the Court, to order and direct by a Warrant under Her Majesty's Sign Manual that any One of the ordinary Judges sitting in the Division where the Vacancy shall not have arisen (if such Judge shall desire it) shall set in the Division where the Vacancy shall have arisen, and that the Vacancy thus created in the Division from which the said Judge shall have been removed shall be supplied by the Senior Judge officiating in the Outer House, who shall thereby be enabled to sit in the said Division: Provided always, that in the Case of the Removal of any of the said Judges from the one of the

said Divisions to the other, such Judge shall have Rank and Precedence as an ordinary Judge in the Division to which he shall be removed according to and from the Date of his original Appointment as a Judge to the Court of Session.

Presidency of the Divisions.

229. In the Absence of the Lord President, the Lord Justice Clerk, whom failing the Senior Judge present, shall preside at all Meetings of the whole Court. In the Absence of the President of either Division, the Senior Judge present shall preside in that Division. Three Judges are and shall be a Quorum in either Division; and, in future, Seven Judges shall be a Quorum of the whole Court, as well for hearing and determining Causes as for the Enactment of Acts of Sederunt and other Business.

In certain Cases One of the Outer House Judges may be called in to form a Quorum in either Division.

230. Where, by reason of Death, Resignation, Indisposition, legal Declinature, or necessary Absence, the Number of Judges of either Division able to attend is reduced to less than a Quorum of Three, in any such Case it shall be competent for the remaining Judges to call in One or more of the Judges officiating in the Outer House, beginning with the Senior, which Judge or Judges so called in shall adjudicate in all Causes brought before them in such Division as if he or they were Members of such Division.

Provision in case of temporary Vacancy in the Bill Chamber.

231. In case of the Death, Resignation, Indisposition, or necessary Absence of the Lord Ordinary officiating in the Bill Chamber during Session, it shall be lawful for the whole Court or a Quorum thereof to appoint another Judge to act for him, or to appoint the other Four Lords Ordinaries to officiate in rotation in the Bill Chamber until he shall again officiate, or until another Judge shall officiate in the regular Rotation.

Motion of Roll of Lord Ordinary may be taken up by another Judge.

232. In case of the Death, Resignation, Indisposition, or necessary Absence (as in conducting a Trial or Proof) of any Lord Ordinary officiating in the Outer House, it shall be lawful for any other Judge, upon the verbal Requisition of the Lord President, to take up the Motion Roll of such Lord Ordinary; and in case of Indisposition or temporary Absence any Judge may take up the Motion Roll of such Lord Ordinary, at his Request; and this Provision shall apply to Teind and Exchequer Causes.

Provision for certain Cases of Declinature.

233. In case of the legal Declinature of any Lord Ordinary, the President of the Division of the Court in which the Cause depends may remit the Cause to any other Lord Ordinary, and for that Purpose the Process may be laid before the Lord President or the Lord

Lord Justice Clerk, as the Case may be, at Chambers, without any Report or Enrolment.

In case of Emergency any Judge may act in Absence of Bill Chamber Judge.

234. In case of the Death, Resignation, Indisposition, necessary Absence, or legal Declinature of the Lord Ordinary officiating in the Bill Chamber during the Period of the Session, but at a Time when the Court is not actually sitting, any Judge of the Court of Session, on a due Statement by any of the Clerks of the Bill Chamber of such Fact, and of some Urgency in the Case, shall and may pronounce on any Bill or Petition which may in such Case be laid before him such Interlocutor as Circumstances may require.

Admission of Judges of the Court of Session regulated.

235. It shall not be necessary for the Court of Session to require any Ordinary Judge who may hereafter be appointed by Her Majesty, Her Heirs or Successors, to undergo the customary Trials prior to his Admission, but any such Judge possessing the Qualification required by the Treaty of Union may, on Presentation of his Commission under Her Majesty's Sign Manual, be immediately admitted to sit as a Judge of the said Court, in like Manner as the Presidents of the Two Divisions of the Court are admitted.

Enrolment of new Causes regulated.

236. The Practice of entering new Causes in the Calling Lists of the Court of Session is hereby abolished, and such Calling Lists, as well as the weekly printed Rolls of the Court of Session, shall, from and after the First Day of November next ensuing, be discontinued, and in lieu thereof the Clerks to the Lords Ordinaries shall keep a Roll or Rolls of Causes, in which all new Causes lodged for Enrolment before such Lords Ordinaries shall be entered; and the Keepers of the Inner House Rolls shall, in addition to the Rolls now kept by them, keep the Roll of Appeals appointed to be kept in Part VII. of this Act, in which they shall enter all Appeals from and Suspensions of Inferior Court Decrees and Interlocutors brought before the respective Divisions of the Inner House; and all First Enrolments of Appeals and Outer House Causes shall be published in the daily Hand Rolls of the Court of Session in the Number issued next after the Papers have been lodged for Enrolment, and such Enrolment may be made and published in the Manner now practised with respect to the Enrolment of single Bills and Petitions before the Junior Lord Ordinary.

Lord President may transfer Causes.

237. It shall be lawful for the Lord President of the Court of Session, from Time to Time as it shall appear to him to be necessary or expedient, with a view to promote the due Despatch of the Business of the Court, to transfer Causes from one Division of the Court to the other, and from any one Lord Ordinary to any other Lord

Ordinary, to such an Extent as he shall judge to be necessary or expedient for the Purpose of promoting Despatch and preventing Delay; and to enable the said Lord President to exercise such Power, it shall be lawful for him to require the Keepers of the Rolls of the respective Divisions, the Principal and Depute Clerks of Session, and the Clerks of the several Lords Ordinary, or of any of them, to transmit to him from Time to Time as he shall direct Lists of the whole Causes depending before such Divisions respectively and the several Lords Ordinaries, and also to attend upon him from Time to Time, and give such Information in regard to such Lists and the State of the Business generally as he may require.

Form of such Transference.

238. When the Lord President shall at any Time Judge it necessary to transfer Causes from the one Division to the other, or from any one Lord Ordinary to any other Lord Ordinary, under the Power hereby given, he shall require to be prepared a List or Lists of the Causes transferred; and every such List shall have a Title specifying the Division from which or the Lord Ordinary from whom, and also the Division to which and the Lord Ordinary to whom the Transference is made, and bearing that such Transference is made by the Lord President under the Authority of this Act; and every such List shall be dated and subscribed at the End thereof by the said Lord President, and shall be effectual to operate a Transference of the Causes therein contained in Terms of the Title thereof, and the Causes shall thereafter be held to depend before the Division to which or the Lord Ordinary to whom the Transference is made, in the same Manner and to the same Effect in all respects as if such Causes had originally depended before such Division or Lord Ordinary; and it shall be sufficient that the Causes shall be entered in the said Lists in the same Manner in which Causes are in use to be entered in the Long Rolls of the Divisions or the Debate Rolls of the Lords Ordinaries: Provided always, that all Causes so transferred shall be taken from the Causes last enrolled in the Order of their Enrolment, unless from Connexion with any depending Action or other similar Reason it may appear proper not to transfer any particular Cause.

List of transferred Cases to be published.

239. Every List of Causes transferred by the Lord President as aforesaid shall be entered in the Books of Sederunt, and shall be forthwith printed and published on the Walls of the Court, and shall also be published in the Minute Book.

Remits ob contingentiam regulated.

240. Where any Action or Proceeding has been brought before One of the Divisions or Lords Ordinaries, the other Division or any of the other Lords Ordinaries shall remit any Action or Proceeding subsequently

subsequently brought before them relating to the same Subject, Matter, or Thing, or having a Connexion or Contingency therewith, to the Division or Lord Ordinary before whom the First Action or Proceeding had been previously brought; and it shall be lawful for One of the Divisions of the Court to remit a Cause to the other Division, or for One Lord Ordinary to remit a Cause to another Lord Ordinary, of Consent of all the Parties, which Consent shall be given by a joint Minute or Note.

Sittings of the Court.

241. The ordinary Sittings of the Court, both Inner and Outer Houses, shall henceforward be as follows; viz., the Summer Season shall in each Year commence on the first lawful Day (Monday excepted) which shall happen next after the Eleventh Day of May, and shall end on the Twentieth Day of July, or when that Day shall fall upon Sunday or Monday on the Saturday immediately preceding; and the Winter Session shall in each Year commence on the first lawful Day (Monday excepted) which shall happen next after the Day of , and shall end on the Twentieth Day of March, or when that Day shall fall upon Sunday or Monday on the Saturday immediately preceding; and it shall not be lawful for the said Court to make an Adjournment at the Christmas Recess for a longer Period than Days.

PART XII.

Appeals in the House of Lords.

And with respect to the Review of Judgments of the Court of Session by Appeal to the House of Lords, be it enacted as follows:

Appeals from Interlocutors of Lords Ordinaries shall not be received.

242. It shall not be lawful for the House of Lords to receive an Appeal from any Interlocutor or Decree pronounced by any Lord Ordinary in the Court of Session: Provided always, that in reviewing any Interlocutor or Decree pronounced by the Court of Session in one of its Divisions, whether in its ordinary Jurisdiction, or sitting as a Court of Review in the Bill Chamber, or as the Court of Commissioners for Teinds, or as the Court of Exchequer in Scotland, it shall be lawful for the House of Lords to pronounce such Judgment as the Court of Session ought to have pronounced, and in so doing to recal or alter any Interlocutor of the Lord Ordinary which ought to have been recalled or altered by the said Court.

Incompetent to appeal from Interlocutor allowing Proof, unless disposing of other Matters.

243. It shall not be competent to appeal to the House of Lords from any Interlocutor whereby a Trial by Jury, or a Proof before the Lord Ordinary, or before One of the Examiners of Court, is allowed, whether such Trial or Proof relate to the whole or Part of a Cause, or from any Interlocutor whereby the Cause or Part thereof is remitted

to such Examiner or to an Accountant or other Person for Investigation, or to appeal from any Interlocutor granting a Diligence, or granting Commission to examine Witnesses in Cases where the Court has a discretionary Power of granting Commission for that Purpose; provided that where any such Order or Allowance of Proof by Jury Trial or otherwise is contained in an Interlocutor deciding any Question which may competently be made the Subject of Appeal, it shall be lawful for the Party decided against to appeal from the whole of such Interlocutor immediately, if the Court, in its Discretion, think fit that an Appeal should be allowed; provided also, that in the event of an Appeal being competently presented against any subsequent Interlocutor it shall be lawful for the Party against whom such first-mentioned Interlocutor has been pronounced to bring the same under the Review of the House of Lords along with any such subsequent Interlocutor or by Cross Appeal.

Appeals from Interlocutors consequent on Jury Trial regulated.

244. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused or when granted being discharged or made absolute, as the Case may be, or provided the Court in its Discretion think fit that an Appeal should be allowed, but if otherwise the Decision of the Court shall be final; provided that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, such Appeal shall not be competent.

Appeals from Judgments upon Special Verdict, &c.

245. It shall be competent to appeal immediately from a Judgment upon a Special Verdict, from a Judgment on a Special Case settled at a Trial, from a Judgment upon an Application to enter a Verdict or Judgment upon a Point reserved at Trial, from a Judgment upon a Motion to enter Judgment in favour of a Party against whom a Verdict has been returned upon Matter of Law arising upon the Record, from a Judgment upon a Bill of Exceptions, and from a Judgment applying a Verdict, although in any of the Cases herein mentioned the Judgment appealed from may not exhaust the whole Merits of the Cause.

General Provisions with respect to final and interlocutory Judgments.

246. And with respect to Interlocutors and Decrees other than such as are herein-before specified, be it enacted, That it shall not be competent to appeal from interlocutory Judgments, but such Appeals shall be allowed only from Judgments or Decrees on the whole Merits of the Cause, unless the Court, in its Discretion, think fit that an Appeal should be allowed, or unless One of the Judges shall

shall dissent from such Interlocutory Judgment: Provided always, that in the event of an Appeal being competently presented against any Decree or Judgment, it shall be lawful for either Party at the same Time to appeal to the House of Lords from any such interlocutory Judgment.

247. In all Cases in which any of the Parties shall desire to appeal from an interlocutory Judgment of the Court of Session on the Ground that One of the Judges has dissented from such interlocutory Judgment, the Party desiring to appeal from such Judgment shall apply by Petition to the Court for Leave to appeal; and if any of the Judges shall have dissented from the Judgment, Leave shall be granted; and the Interlocutor granting Leave to appeal upon that Ground shall in any Question as to the Competency of such Appeal be conclusive Evidence that there was a Difference of Opinion among the Judges with respect to such Judgment.

House of Lords may regulate Time of Hearing.

248. It shall be lawful for the House of Lords by Standing Order from Time to Time to direct that any particular Class of Appeals from the Court of Session shall have Priority over other Appeals from the said Court in the List of Appeals set down for Hearing.

Limitation as to Time for presenting Appeal

249. Judgments, Decrees, and Orders of the Court of Session are and shall be final, and not subject to be complained of by Appeal to the House of Lords, unless the Petition of Appeal shall be lodged with the Clerk of the Parliaments or the Clerk Assistant within Two Years from the Date of signing the last Interlocutor appealed from, or before the End of Fourteen Days, to be accounted from and after the First Day of the Session or Meeting of Parliament for the Despatch of Public Business next ensuing the said Two Years: Provided always, that when the Person or Persons entitled to appeal shall be out of the Kingdom of Great Britain and Ireland it shall be competent for him or them to enter an Appeal at any Time within Five Years from the Date of the last Interlocutor, if he or they shall remain abroad so long, or within Two Years from the Time of coming into Great Britain or Ireland, the Time allowed to such Person or Persons for lodging his or their Appeal in no Case on account of mere Absence exceeding the foresaid Space of Five Years, together with the Space that may elapse before the End of the Fourteenth Day from and after the Session or Meeting of Parliament next after the Expiration of the said Five Years; and in case the Person or Persons so entitled to appeal shall be under the Age of Twenty-one Years, or non compos mentis, it shall be competent for them, or their Heirs or Representatives, where no Appeal had been previously entered on this Behalf, to enter an Appeal at any Time

within Two Years after full Age or coming of sound Mind, or after the Death of the Person so disqualified, and the opening of the Succession to the Heir, or before the End of Fourteen Days after the First Day of the Session or the Meeting of Parliament next ensuing the said Two Years.

Certified Copy of Record, &c. to be laid before the House.

250. When any Cause shall be carried by Appeal to the House of Lords the Appellant shall lay before the House a Copy, certified as authentic by the Signature of One of the Principal Clerks of Session, or of One of the Assistants of the said Clerks, for whom the Principal Clerk shall be responsible, of the whole of the Record in the Court of Session or Inferior Court, as the Case may be, including any Minute of Amendment or other Minute or Pleading allowed to be lodged subsequent to the Completion of the Record; and the Cases which are delivered to the House of Lords shall continue to be framed in conformity with the existing Practice, unless the House of Lords by any Standing Order shall otherwise direct; provided that the Appellants shall present to the House of Lords as Part of his printed Case, or as an Appendix thereto, a Copy of the Record and other Papers aforesaid, as certified by the said Clerk.

Regulation as to interim Possession, &c.

251. When any Appeal is lodged in the House of Lords a Copy of the Petition of Appeal shall be laid by the Respondent or Respondents before the Judges of the Division to which the Cause belongs; and the said Division, or any Three of the Judges thereof, shall have Power to regulate all Matters relative to interim Possession or Execution, and Payment of Costs and Expenses already incurred, according to their sound Discretion, having a just Regard to the Interests of the Parties as they may be affected by the Affirmance or Reversal of the Judgment or Decree appealed from.

252. It shall not be competent by Appeal to the House of Lords touching the Regulations so made as to such interim Possession, Execution, and Payment of Expenses or Costs, to stop the Execution of such Regulations as shall have been so made as aforesaid respecting the same; provided that when the Appeal touching the Judgment or Decree appealed from shall be heard it shall be competent for the House of Lords to make such Order and give such Judgment respecting all Matters whatsoever which shall have been done or have taken place in pursuance of or in consequence of such Regulations so made as to interim Possession, Execution, and Payment of Expenses or Costs, as the Justice of the Case shall appear to the said House of Lords to require.

253. If

House of Lords may adjudge the Payment of Interest.

253. If upon hearing the Appeal it shall appear to the House of Lords to be just to decree or adjudge the Payment of Interest, simple or compound, by any of the Parties in the Cause to which such Appeal relates, it shall be competent to the said House to decree or adjudge the Payment thereof, as the said House in its sound Discretion shall think meet.

Application of Judgment of House of Lords.

254. Where any Appeal presented to the House of Lords against an Interlocutor or Decree of the Court of Session shall be dismissed for Want of Prosecution, it shall be lawful for any Respondent in such Appeal to apply by Petition to that Division of the Court of Session to which such Cause shall belong; and it shall be competent to the Judges of the said Division, upon such Petition, to decree Payment of Interest, simple or compound, by the Appellant to such Respondent, in such Manner as the said Division in its sound Discretion shall think meet, together with the Costs or Expenses which have been incurred in consequence of such Appeal.

House of Lords may require Opinions of the Judges of the Court of Session upon Questions of Law.

255. It shall be lawful for the House of Lords, in remitting to the Court of Session any Cause which is now or shall hereafter come before the said House by Appeal from the Court of Session, to instruct the Division of the Court of Session to which the Cause is remitted to order and direct the whole or any Part of such Cause to be tried by Jury, or to order and direct a Proof to be taken upon the whole or any Part of such Cause in any other Manner consistent with the Practice of the said Court; and it shall be lawful for the House of Lords in remitting any Cause as aforesaid to instruct the said Division to direct any such Questions as the House may think fit to state to be argued before the whole Court, and to require the Judges to report their Opinions thereon; and every such Hearing shall take place in Presence of all the Judges; provided that, notwithstanding the Death or Resignation of any Judge present at such Hearing, it shall be lawful to report to the House of Lords the Opinions of such of the Judges present at the Hearing as shall be Members of the Court at the Time of such Report.

Interpretation.

256. The Words "Pursuer" and "Defender," when used in this Act in connexion with Provisions which in their Substance are applicable to Bill Chamber Proceedings, shall be taken to include Complainers and Respondents, and when used in Provisions applicable to all Actions and Proceedings shall include Petitioner and Respondent.

Authority to Court to pass Act of Sederunt.

257. The Court of Session shall be and the said Court is hereby empowered, from Time to Time, from and after the passing of this

Act, to make such Regulations by Act or Acts of Sederunt as the said Court may deem meet for carrying into effect the Purposes of this Act, and also to repeal or consolidate the Provisions of such of the Acts of Sederunt now in force as have Relation to the Practice of the said Court, and to issue such abridged Forms of Pleadings and Writs under this Act as they may approve; and for that Purpose the said Court may meet during Vacation as well as during Session, and may alter and amend such Regulation and Forms from Time to Time: Provided always, that every such Act of Sederunt shall within One Month after the Date thereof be transmitted by the Lord President of the Court of Session to One of Her Majesty's Principal Secretaries of State, to the end the same may be laid before both Houses of Parliament.

Commencement of Act.

258. Excepting in so far as regards the Power herein-before given to the Court of Session to pass Acts of Sederunt, this Act shall take effect from and after the *First Day of November One thousand eight hundred and sixty-three*: Provided always, that it shall be lawful in any Cause depending at the said First Day of November in which a Record has not then been completed to make up a Record according to the existing Practice; and all Causes depending at the said First Day of November in which the Record has been already closed shall thenceforth, and all other Causes depending at the said Date shall as soon as a Record has been made up and closed, be conducted and prosecuted to a Conclusion as nearly as may be according to the Forms and Regulations herein provided with respect to Bills of Complaint.

Short Title.

259. This Act may be cited for all Purposes as "The Court of Session (Scotland) Act, 1863."

SCHE-

SCHEDULES to this Act annexed.

SCHEDULE (A.)

FORM OF SUMMONS OR WRIT IN SIMPLE PETITORY ACTIONS.

[*First*] Division. Lord , Ordinary.

VICTORIA, *&c.*

To *C.D.* [*Name and Designation of Defender.*]

We command you, that within Fourteen Days after Service of this Writ on you, inclusive of the Day of such Service [*if in Scotland, or within Twenty-one Days thereafter if in Orkney or Shetland or furth of Scotland*], you do cause Appearance to be entered for you, and Defences to be lodged, in an Action in the Court of Session at the Instance of *A.B* [*Name and Designation of Pursuer*]; and take Notice, that in default of your so doing the said *A.B.* may proceed therein to Judgment and Execution; and we charge Messengers at Arms to serve this Writ upon the within-named Defender [and also lawfully to fence and arrest, *&c.* [*Insert Warrant of Arrestment in common Form, if desired*]. Given under our Signet, at Edinburgh.

To be signed by the Pursuer's Agent, who shall be an Agent practising before the Court of Session.

SCHEDULE (B.)

FORM OF SPECIAL INDORSEMENT WHERE PLEADINGS ARE DISPENSED WITH.

[*After the Indorsement required by the Third and Fourth Sections of this Act this special Indorsement may be inserted.*]

The following are the Particulars of the Pursuer's Claim:

		£	*s.*	*d.*
1849.	June 20. Half Year's Rent to this Day of House and Premises in Street Edinburgh - - - -	25	10	0
	Sept. 12. Ten Sacks of Flour at 40*s.* -	20	0	0
	Dec. 1. Money received by Defender -	17	0	0
		62	10	0
	Paid - - -	15	0	0
	Balance due - -	£47	10	0

or

	£	*s.*	*d.*
To Butcher's Meat supplied between the 1st of January 1849 and the 1st of January 1850 - - -	52	0	0
Paid - - - - -	20	0	0
Balance - - -	£32	0	0

[*If any Account has been delivered it may be referred to by its Date, or the Pursuer may give such other Description of the Debt as in a Condescendence, but without setting forth the Particulars of the Contract or Obligation; as, for example:*]

£50 Principal, and £ Interest thereon, due on a Bond and Disposition in Security, dated the Day of for the Sum of £ .

or

£90 Principal, and £ Interest thereon, due for Freight on the Obligation contained in a Charter Party, dated the Day of to pay £500 and Interest.

or

Penalties to the Amount of £100 under the Statute 17 & 18 Vict. c. 102. s. 9.

or

£85 on a Bill of Exchange for £100, dated the 2d February 1849, accepted, *or* drawn, *or* indorsed by the Defender.

or

£50 on a Guarantee, dated the 1st of January 1860, whereby the Defender guaranted the due Payment by *E.F.* of Goods supplied or to be supplied to him to the Amount of £ ; viz.,

[*Here describe the Account, as in the Example previously given.*]

[*To any of the above may be added, in Cases where Interest is payable*, the Pursuer also claims Interest on £ of the above Sum from the Date of the Writ until Judgment.]

SCHEDULE (C.)

Forms of Bills of Complaint.

No. 1.

Bill of Complaint for Payment of a Legacy or Share of Succession.

Unto the Right Honourable the Lords of Council and Session.

Bill of Complaint for *A.*, Merchant in *B.*, against *C.*, *D.*, and *E.*, Executors of the deceased *F.*, residing in *G.*, nominated and appointed by, *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for a Declaration of his Right and Interest in the Estate of which the said *C.*, *D.*, and *E.* are Executors, and for Decree against the

the said Executors for Payment of the Amount thereof, as will appear from the annexed Condescendence.

May it therefore please your Lordships to find and declare that the Share or Interest in the Testamentary Estate of the said *F.*, conceived in favour of the Pursuer by a Testament executed by the said *F.* on the Day of was a vested Interest in the Person of the Pursuer at the Death of the said *F.*, and that the same amounts to One Fifth of the free moveable Estate of the said *F.*, and also to decern and ordain the said *C.*, *D.*, and *E.*, Executors foresaid, to make Payment to the Pursuer of the Sum of £ , or such other Sum as may be ascertained to be the Amount or Value of his Share and Interest as aforesaid, with Interest thereon from the Term of Martinmas 18 , as directed in the said Testament, and to find the Pursuer entitled to Expenses from the said Testamentary Estate, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

(Signed) *X. Y.*

[*Here follows the Condescendence, according to the Form provided in this Act*].

(Signed) *X. Y.*

The Bill and Condescendence to be drawn by Counsel, whose Name shall be stated, and to be signed by Counsel or Agent.

No. 2.

Bill of Declarator and Removing.

Unto the Right Honourable the Lords of Council and Session.

Bill of Declarator and Removing for *A.*, heritable Proprietor of the Lands and Barony of in the Parish of and Shire of against *E.*, residing in *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for a Declaration of his Title to the Property after-mentioned, and for Decree of Removing against the Defender, as will appear from the annexed Condescendence.

May it therefore please your Lordships to find and declare that a Piece of Ground, consisting of Acres [*describe the Subjects in dispute*], taken possession of by the said *E.*, Defender, is a Part and Portion of all and whole the Lands and Barony of of which the Pursuer is Proprietor, and that the same pertains heritably in Property to the Pursuer in virtue of [*specify the last Disposition and Sasine or registered Writ*], and his other Rights and Titles, and also to decern and ordain the said *E.*

[*insert Conclusion for Removing or other necessary Decerniture*], and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*The Bill and Condescendence to be signed as before.*]

No. 3.

Bill of Accounting and Payment.

Unto, *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for an Order upon the Defender to enter into an accounting with him, and for Decree against the said Defender for Payment of the Balance of his Intromissions, as will appear from the annexed Condescendence:

May it therefore please your Lordships to ordain the Defender to exhibit and produce before your Lordships a full and particular Account of his whole Intromissions as Factor for the Pursuer [*or otherwise, as the Case may be,*] whereby the true Balance due by him to the Pursuer may be ascertained; and also to decern the said Defender to make Payment to the Pursuer of the Sum of £ or of such other Sum as may be ascertained to be due by the Defender as the Balance of his said Intromissions, with Interest on the said Account from the Day of until Payment; or, in the event of the Defender failing to produce an Account as aforesaid, to decern and ordain the said Defender to make Payment to the Pursuer of the Sum of £ or such other Sum as shall be ascertained to be due upon an Inquiry before your Lordships, and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*The Bill and Condescendence to be signed as before.*]

No. 4.

Bill of Complaint and Interdict.

Unto, *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for Delivery of the Property after mentioned, and for Interdict, as will appear from the annexed Condescendence:

May it therefore please your Lordships to decern and ordain the Defender to deliver to the Pursuer the Goods forming the Cargo of the Ship *I.*, to which he is entitled as Indorsee and Holder for Value of a Bill of Lading, dated the Day of ,

granted

granted by the Defender in favor of and his Assignees; and in the meantime to interdict, prohibit, and discharge the said Defender from giving Delivery of the said Goods to any other Person than the Pursuer, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*The Bill and Condescendence to be signed as before.*]

No. 5.

Bill of Reduction and Declarator.

Unto, *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for Reduction of the Disposition and Settlement and other Writs after mentioned, and for Decree of Declarator in his Favour as Trustee aforesaid, as will appear from the annexed Condescendence:

May it therefore please your Lordships to reduce and set aside a Disposition and Settlement executed by *C.D.* in favour of the Defender, dated the Day of contrary to the Statute 1696, Cap. 5. [*or* as being false and forged. *It shall not be imperative to refer to any Statute or other Head of Reduction except Forgery*]; and to find and declare the same to have been and to be null and void; and also to find and declare that the Pursuer, as Trustee aforesaid, is, in virtue of "The Bankruptcy (Scotland) Act, 1856," vest in all and whole the several Rights and Securities pretended to be conveyed by the said Disposition, viz^{t}.

absolutely and irredeemably, and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*The Bill and Condescendence to be signed as before.*]

No. 6.

Bill of Multiplepoinding.

Unto, *&c.*

That the Pursuer [and real Raiser] is under the Necessity of applying to your Lordships for an Order for the Distribution of the Fund after mentioned [*if the Pursuer is not the real Raiser, add* and this Action is accordingly raised in his Name by the said *E.*, Defender] as will appear from the annexed Condescendence:

May it therefore please your Lordships to find and declare that the said Pursuer is only liable in once and single Payment of the Principal Sum of £ contained in a Bond granted by him to *G.H.*, his Heirs, Executors, and Assignees, and dated the Day

of with Interest thereon from until Payment, or until Consignation in this Process; and also to ordain the several Defenders, and all others pretending Right thereto, to produce their respective Claims to the End that the said Fund and Interest may be lawfully distributed; and to find the Pursuer entitled to his Expenses out of the said Fund, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*The Bill and Condescendence to be signed as before.*]

No. 7.

Bill of Divorce.

Unto, *&c.*

That the Pursuer is under the Necessity of applying to your Lordships for Decree of Divorce, as will appear from the annexed Condescendence:

May it therefore please your Lordships to find Facts and Circumstances proven relevant to infer the Defender's Guilt of Adultery with and therefore to find her guilty of Adultery accordingly, and to dissolve the Marriage between the Pursuer and the said Defender, and also to find and declare that the Defender has forfeited all the Rights and Privileges of a lawful Spouse.

According to Justice, *&c.*

[*Bill and Condescendence to be signed as before.*]

SCHEDULE (D).

FORM OF PRECEPT TO BE ANNEXED TO THE BILL.

(*First*) Division. Lord Ordinary.

VICTORIA, *&c.*

To *C.D.* [*Name and Designation of the Defender.*]

We command you, that, within Fourteen Days after Service of this Writ on you, inclusive of the Day of such Service [*if in Scotland, or within Twenty-one Days thereafter if in Orkney or Shetland or furth of Scotland*], you do cause Appearance to be entered for you, and Answers to be lodged to the within Bill of Complaint of the within named *A.B.*;* and take notice that in default of your so doing the

* *Where Reduction is concluded for, add:* and also that you cause to be exhibited and produced before the Lords of Council and Session the Writings which the Pursuer seeks to have reduced and set aside.

said

said *A.B.* may proceed therein to Judgment and Execution; and we charge Messengers-at-Arms to serve this Writ, and the within Bill of Complaint, upon the said Defender, [and also lawfully to fence and arrest, *&c. Insert Warrant of Arrestment in common Form, if desired*]. Given under our Signet at Edinburgh.

[*To be signed by the Pursuer's Agent, who shall be an Agent practising before the Courts of Session*].

SCHEDULE (E.)

FORM OF EXECUTION OF SERVICE OR INTIMATION.

This Summons, [*or* Bill, *or* Note of Suspension, *or* Bill of Suspension and Interdict, *&c. or* Petition,] executed [*or* intimated] by me [*insert Name*], Messenger-at-Arms, against [*or* to] [*insert Name or Names*], Defender [*or* Defenders, *or* Respondent *or* Respondents] [*state whether personally or otherwise*], in Presence of [*insert Name and Designation of Witness*] this Day of Eighteen hundred and Years.

[*Signature of Messenger.*]

C.D., Witness.

SCHEDULE (F.)

FORM OF RECLAIMING NOTE.

Unto the Right Honourable the Lords of Council and Session.

Reclaiming Note for *A.B.*, residing in Pursuer in the Action, at the Instance of *C.D.*, residing in against him.

November 1863. In this Action, Lord Ordinary, was, of this Date, pleased to pronounce the prefixed Interlocutor, which, together with the other Interlocutors in the Cause, is submitted to the Review of the Court.

May it therefore please your Lordships to recal or alter the said Interlocutor, and to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

[*To be signed by Counsel.*]

Court of Session (Scotland)

A

BILL

To consolidate and amend the Laws relating to Procedure in the Court of Session in Scotland, and in Appeals to the House of Lords.

(*Prepared and brought in by*
The Lord Advocate and Sir George Grey.)

(*Price* 1*s.* 1*d.*

Ordered, by The House of Commons, *to be Printed,*
8 *May* 1863.

[Bill 116.]

Under 13 *oz.*

Court of Session (Scotland).

[AS AMENDED IN COMMITTEE.]

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SCHEDULES.

A

BILL

[AS AMENDED IN COMMITTEE]

TO

Consolidate and amend the Laws relating to Procedure in the Court of Session in Scotland, and in Appeals to the House of Lords.

Preamble.

WHEREAS the Practice and Mode of Procedure in the Court of Session in Scotland may be rendered more simple, certain, and expeditious by the Repeal of the Statutory Regulations which are now in force, and the Enactment of a new Code of Regulations: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Repeal of existing Enactments.

1. The several Statutes and Parts of Statutes mentioned in the following Table shall be and are hereby repealed to the Extent therein specified, except in so far as necessary to support Proceedings heretofore taken, or Acts of Sederunt passed in pursuance thereof, all which Acts of Sederunt (not being inconsistent with the Provisions of this Act,) are hereby reserved in force until the same shall be altered or repealed by the Authority of the Court of Session, reserving also all Annuities or other periodical Payments which may still be payable under any of the said Statutes as Compensation for the

Abolition of any Office: Provided always, and be it enacted, That such Repeal shall not have the Effect of reviving any Jurisdiction or Office, or any Action, Process of Review or other Procedure, or any Usage, Right, or Privilege abolished by any of the said Statutes; viz.,

48 Geo. 3. c. 151. intituled "An Act concerning the Administration "of Justice in Scotland and concerning Appeals to the House "of Lords." The whole Act.

50 Geo. 3. c. 112. intituled "An Act for abridging the Form of "extracting the Decrees of the Court of Session in Scotland, "and for the Regulation of certain Parts of the Proceedings of "that Court." The 27th, 43d, and intervening Sections only.

53 Geo. 3. c. 64. intituled "An Act for the better Regulation of "the Court of Session in Scotland." The whole Act.

55 Geo. 3. c. 42. intituled "An Act to facilitate the Administration "of Justice in that Part of the United Kingdom called Scotland "by the extending Trial by Jury to Civil Causes." The whole Act.

59 Geo. 3. c. 35. intituled "An Act to amend an Act passed in the "55th Year of the Reign of His present Majesty, entitled 'An "'Act to facilitate the Administration of Justice in that Part "'of the United Kingdom called Scotland by the extending "'Trial by Jury to Civil Causes.'" The whole Act.

59 Geo. 3. c. 45. intituled "An Act to explain and amend certain "Acts relative to the Court of Session in Scotland." The whole Act.

1 & 2 Geo. 4. c. 38. intituled "An Act for establishing Regulations "respecting certain Parts of the Proceedings in the Court of "Session and in the Court of Commissioners for Teinds, and "respecting the Duties, Qualifications, and Emoluments of "certain Clerks and other Officers of the said Courts." The 1st, 5th, and intervening Sections only.

6 Geo. 4. c. 120. intituled "An Act for the better regulating of the "Forms of Process in the Courts of Law in Scotland." The whole Act, excepting Section 57.

11 Geo. 4. and 1 Will. 4. c. 69. intituled "An Act for uniting the "Benefits of Jury Trial in Civil Causes with the ordinary "Jurisdiction of the Court of Session, and for making certain "other Alterations and Reductions in the Judicial Establish-"ments of Scotland." The 2d, 9th, and intervening Sections, and also the 36th, 40th, and intervening Sections.

2 Will. 4. c. 5. intituled "An Act to provide for carrying on the "Business of the Court of Session in Scotland when interrupted "by the Death or necessary Absence of any of the Judges "thereof." The whole Act.

7 Will. 4. c. 14. intituled "An Act to explain and amend Two Acts "relating to Trial by Jury in Scotland." The whole Act.

1 & 2 Vict. c. 86. intituled "An Act to diminish Delay and Expense "in Advocations and Suspensions in the Court of Session in "Scotland." The whole Act.

13 & 14 Vict. c. 36. intituled "An Act to facilitate Procedure in "the Court of Session in Scotland." The whole Act.

16 & 17 Vict. c. 80. intituled "An Act to facilitate Procedure in "the Sheriff Courts in Scotland." The 22d, 24th, and 25th Sections only.

17 & 18 Vict. c. 59. intituled "An Act to allow Verdicts on Trials "by Jury in Civil Causes in Scotland to be returned although "the Jury may not be unanimous." The whole Act.

20 & 21 Vict. c. 56. intituled "An Act to regulate the Distribution "of Business in the Court of Session in Scotland." The whole Act.

22 & 23 Vict. c. 7. intituled "An Act to amend an Act of the "Seventeenth and Eighteenth Years of Her Majesty, for allowing "Verdicts on Trials by Jury in Civil Causes in Scotland to be "received although the Jury may not be unanimous." The whole Act.

PART I.

Institution of Ordinary Actions and Judgment therein.

With respect to all Actions which, according to the existing Practice, might be instituted by Summons, be it enacted as follows:

New Form of Summons.

2. All such Actions shall in future be instituted by a Summons passing the Signet in the Form contained in the Schedule (A.) to this Act annexed marked No. 1, which shall be effectual as a Warrant summoning the Defender to appear before the Lords of Council and Session in the Action to follow thereon, and on the Induciæ specified in the said Schedule. Every such Summons may be either in Writing or printed, or partly in Writing and partly printed, and shall be signed by a Writer to the Signet: Provided always, that in Consistorial and Teind Causes the Summons shall and may be signed either by a Writer to the Signet, or by a Principal or Depute Clerk in the Court of Session, or Court of Commissioners for Teinds respectively, and shall also be signeted.

Date of Summons and Execution of Citation.

3. The Date of signeting shall be inserted at the End of the Summons by the Officer affixing the Signet, and shall be held to be the Date of the Summons, and the Summons itself shall be good and sufficient Warrant for the Service thereof upon any Defender at any

Time within Three Months after its Date, and it need not be in the Hands of the Officer by whom Service is made at the Time of such Service. Instead of the usual Citation, the Officer shall endorse upon the Service Copy of the Summons, and subscribe, a Memorandum in the Form contained in the Schedule (A.) marked No. 4, or to the like Effect.

New Forms of Warrant of Arrest and Warrant of Inhibition.

4. It shall be lawful to annex at the End of any Summons under this Act, but so as to form Part thereof, a Warrant of Arrestment in the Form contained in the Schedule (A.) marked No. 2., which shall have the like Effect in Law as a Warrant of Arrestment annexed to a Summons passing the Signet in the existing Form; and it shall be lawful to annex as aforesaid to any Summons under this Act a Warrant of Inhibition in the Form contained in Schedule (A.) marked No. 3., which shall have the like Effect as Letters of Inhibition used upon the Dependence of a Summons passing the Signet, according to the existing Practice; and in the Schedules and Executions of Arrestment and Inhibition the Diligence shall be narrated in Terms of the Warrant, in place of the longer Narrative now in use; and it shall not be necessary to obtain the Concurrence of the Lord Ordinary on the Bills to any Warrant of Arrestment for the Purpose of arresting Ships or Maritime Subjects on such Warrant; and in other respects the Forms of Execution and Procedure had upon such Warrants of Arrestment and Inhibition shall be the same as have been in use according to the existing Practice, except in so far as the same may be altered or affected by any of the subsequent Provisions of this Act: Provided always, that it shall be lawful, upon the Dependence of any Summons or Process under this Act, to raise and execute Letters of Arrestment and Letters of Inhibition in all Cases in which similar Diligence might have been used according to the existing Practice.

Indorsement of the Division of the Court and Name of Agent.

5. On every Summons under this Act, and every Service Copy thereof, there shall be marked the Division of the Court and the Lord Ordinary before which the intended Action is to be instituted, and also the Name, professional Qualification, and Place of Business of the Pursuer's Agent in the Court of Session.

In Money Actions Amount of Debt or Claim to be indorsed on Summons.

6. In all Actions instituted under the Authority of this Act for the Recovery of Money only, except such as are herein-after expressly excepted, the Summons and every Service Copy thereof shall bear an Indorsement or Claim in which shall be stated the Amount of the Sum of Money claimed, if any, and also the Amount of Interest claimed, if any, and also the Amount which the Pursuer's Agent claims for the Expenses of the Summons, Execution and Service thereof, and for calling, and for Attendance to receive such Sum or Sums, and for Expenses; and it shall be further stated that upon Payment

Payment thereof within Four Days to the Pursuer's Agent farther Proceedings shall be stayed; which Indorsement shall be written or printed in the following Form, or to the like Effect:

'THE Pursuer claims Sterling for Debt, with
' Sterling of Interest thereon
' [*or* Sterling for Damages, *as the Case may be*]
' and Sterling for Expenses; and if the Amount
' thereof be paid to the Pursuer or to his Agent within Four Days
' from the Service thereof, farther Proceedings will be stayed.'

But the Defender shall be at liberty, notwithstanding such Payment, to have the Account of Expenses taxed; and if more than One Sixth of the Amount, exclusive of the Expense of Taxation, shall be disallowed, the Pursuer's Agent shall pay the Expenses of Taxation.

In other Cases the Pursuer shall set forth the Remedy desired in a Bill annexed to the Summons.

7. In all Actions instituted under the Authority of this Act for the Purpose of obtaining Decree of Declarator, or any Remedy other than a simple Decerniture for Money, there shall be annexed to the Summons and every Service Copy thereof a "Bill" or Prayer addressed to the Court, in which shall be set forth the Nature of the Decerniture or other legal Remedy claimed by the Pursuer, and that as nearly as may be in the Words in which the Pursuer desires to have the same affirmed or granted by a Decree of the Court; and such Bill or Prayer may be expressed in one or other of the Forms contained in the Schedule (B.) to this Act annexed, and where these are inapplicable, then according to the Substance of the Conclusions which have heretofore been inserted in Summonses of the same Tenor; and it shall be lawful to vary any of the Forms contained in the Schedule, and to make such Additions thereto as may be requisite according to the Nature and Effect of the Pursuer's Demand; and in every such Bill it shall be lawful also to pray for Decree for Payment of Money, and for Expenses.

Actions of Constitution against Trustees, and Actions in which Expenses only claimed conditionally, to be instituted by a Summons with a Bill annexed.

Condescendence to be served with the Summons in such Cases.

8. All Actions against Trustees, Executors, Judicial Factors, Guardians, and other Persons possessing or holding Property in trust, brought for the Purpose of having any Debt or Claim constituted against the Trust Estate, and also all Actions in which Expenses are only claimed from the Defender or One or more of the Defenders in the event of he or they appearing and defending the Action, shall be instituted in the Form of a Summons with a Bill annexed, although such Actions are brought for the Recovery of Money only; and in all such Actions as are before specified in this Section, and also in all Consistorial Actions, a Copy of the Condescendence which is to be lodged at Calling shall be annexed to each Service Copy of the Summons, or served with it upon each Defender.

 9. If

Actions erroneously brought in the Form of a Summons with Bill annexed not to be deemed invalid.

9. If in any Action instituted in the Form of a Summons with a Bill annexed it shall appear to the Court that the Prayer, except in so far as respects the Recovery of Money, is incompetent or unnecessary, such Action shall not on that Account be held void, but it shall be lawful to decern in such Action for Payment to the Pursuer of the Amount of his Money Claim, notwithstanding that such Money Claim has been inadvertently or improperly sued for in the Form of a Bill; and the Lord Ordinary or Court may at the same Time award to the Defender such Expenses as he shall have incurred in opposing any such incompetent or unnecessary Prayer as aforesaid.

In case of omission, Amendment may be ordered or Action dismissed.

10. In case of any Omission to insert in or to annex to any Summons or Service Copy thereof any of the Matters required by this Act to be inserted therein or annexed thereto, such Summons shall not on that Account be held void, but it may either be dismissed as irregular, or amended in manner after provided, upon Application to the Lord Ordinary or the Court, and such Amendment may be made upon any Application to dismiss the Action upon such Terms as the Lord Ordinary or the Court may think fit: Provided always, that in the event of Application being made by the Pursuer for Leave to amend in any undefended Action the Court shall order the Summons as amended to be served upon the Defenders, with Liberty to the Defenders to enter Appearance at any Time within Eight Days after such Service.

General Power of Amendment given to the Court.

11. It shall be lawful for the Lord Ordinary or the Court, at any Stage in the Progress of the Action, to amend the Claim or Prayer of the Bill indorsed upon or annexed to the Summons, to the Effect of obviating any Error or Defect of Form therein, or to restrict such Bill or Claim, or to add to such Bill or Claim to the like Effect: Provided that the Pursuer shall not, without the Consent of all the Parties, be enabled by such Amendment or Addition to claim any larger Sum, or to subject to the Adjudication of the Court any other Fund or Property than such as was or were specified in the original Endorsement; and all Amendments or Additions to any Endorsement under this Act may be made either by way of Manuscript Alteration on the original Summons, or in a separate Paper, and shall be authenticated by the Counsel for the Party making the Amendment in the usual Manner; and the Lord Ordinary or the Court may at the same Time award to the Defender such Expenses as he shall have incurred in consequence of the defective or incorrect Form of any such Bill or Claim, or in opposing the same.

Actions to be called in Court, and

12. Upon the Expiration of the Induciæ, or (unless Protestation shall have been put up,) at any Time within Three Months from the Date

Date of Service of the Summons, the Pursuer may lodge the Summons for Calling, and the Action shall thereupon be entered in the Calling List of the Court, and called in common Form; and the Defender shall be bound to enter Appearance on the Day after the Publication of the Action in the Calling List. Defender to enter Appearance on the following Day.

13. There shall be at least Two Calling Days in each Week during Session, on which Days a List of all new Cases entered for Calling shall be published, and the Practice of enrolling new Cases in the weekly printed Rolls shall be discontinued. Regulations as to Calling Lists. Weekly Rolls to be discontinued.

14. In all Cases where the Amount claimed by the Pursuer is endorsed on the Summons in Terms of Section Six, and the Claim is for a Debt or liquidated Demand in Money, with or without Interest, arising upon a Contract, express or implied, as for instance on a Bill of Exchange, Promissory Note or Cheque, or other Simple Contract Debt, or on a holograph or tested Bond, or Contract for Payment of a liquidated Amount of Money, or on a Statute where the Sum sought to be recovered is a fixed Sum of Money, or in the Nature of a Debt, or on a cautionary Obligation or Guarantee, holograph or tested, where the Claim against the Principal Debtor is in respect of any such Debt or liquidated Demand, Bill, Cheque, or Note, in all such Cases the Pursuer shall be at liberty to add to the Endorsement or Claim upon the Summons and Service Copy thereof a special Endorsement of the Particulars of his Claim, in the Form contained in the Schedule (C.) or to the like Effect. In certain Cases of Simple Contract Debt Pursuer may annex to Summons a special Indorsement of Particulars.

15. In all Cases where the Summons is endorsed in the special Form herein-before provided, if a Defender shall fail to enter Appearance on the Day after the Publication of the Action in the Calling List, the Depute Clerk of Session or his Assistant having Charge of the Process shall, if requested by the Pursuer's Agent, on the Day following that on which Appearance ought to have been entered or on any subsequent Day within One Month after such Publication, write upon the Interlocutor Sheet the following Deliverance: Where Summons is specially indorsed, and Defender does not appear, Judgment may be signed by the Pursuer's Agent.

'Edinburgh [*insert Date*] Lord Ordinary.

'In respect the Summons is specially endorsed according to the 'Court of Session (Scotland) Act, 1863, and the Defender has 'failed to appear, decerns and ordains *C.D.* Defender to make 'Payment to *A.B.* Pursuer of the Sum of [*insert Sum*] Sterling of 'Principal, and [*insert Sum*] Sterling of Interest thereon, with the 'Expenses of Process, all in Terms of the Summons and special 'Indorsement:'

Provided always, that the above-mentioned Form may be varied so as to adapt it to Cases where there are more than One Pursuer or

Defender, or where it is necessary that Decree should go out against such Defender or in favour of such Pursuer, in any particular Character specified in such Summons or Endorsement; and the said Judgment or Decree shall thereupon be signed by the Pursuer's Agent, and by the said Clerk of Court or Assistant Clerk, and shall be effectual as a Decree in Absence according to the Tenor thereof, and may be extracted as such in like Manner as a Decree in Absence in Terms of the Conclusions of any Summons may now be extracted.

Provision in case where Summons is specially endorsed, and some of the Defenders do not appear.

16. In any Action brought against Two or more Defenders where the Summons is endorsed in the special Form herein-before provided, if One or more if such Defenders only shall appear, and another or others of them shall not appear, it shall and may be lawful for the Pursuer to sign Judgment against such Defender or Defenders only as shall not have appeared in manner herein-before provided, and before lodging a Condescendence against the other Defender or Defenders to extract such Judgment; in which Case he shall be taken to have abandoned his Action against the Defender or Defenders who shall have appeared; or the Pursuer may, in place of signing Judgment in Absence, lodge a Condescendence, and thereafter move the Lord Ordinary for and obtain Decree in Absence against the Defender or Defenders who shall not have appeared; in which Case the Decree so obtained shall have the same Effect as a Decree in Absence in Terms of the Conclusions of a Summons in the existing Form against One or more of the several Defenders in the Action raised on such Summons.

In other Cases the Pursuer may obtain Decree in Absence, after he has lodged a Condescendence.

17. Where the Summons is not endorsed in the special Form herein-before provided, if a Defender shall fail to enter Appearance on the Day after the Publication of the Action in the Calling List, it shall be lawful for the Pursuer to enrol the Case in the Lord Ordinary's Motion Roll, and to move for and obtain Decree in Absence against such Defender for any Sum not exceeding the Sum or Sums specified in the Claim; and where the Action is in the Form of a Summons with the Bill annexed it shall be lawful for the Pursuer to move for such Decree or Judgment in Absence as might lawfully have been obtained in absence of the Defender in virtue of a depending Summons containing Conclusions similar to the Prayer of the Bill endorsed upon such Summons, or to take such other Procedure as might competently have been taken upon a depending Summons containing similar Conclusions: Provided always, that before moving for Decree the Pursuer shall lodge a Condescendence in Terms of this Act, and it shall be lawful for the Lord Ordinary to sign any Interlocutor and Decree in Absence, until the Clerk of the Process or Assistant Clerk shall have certified by a Minute on the Interlocutor Sheet that such Condescendence has been lodged.

18. Every

18. Every Interlocutor and Decree to be pronounced in any Action proceeding upon a Summons and Claim shall specify the Sum or Sums decerned for, which Decree may be extracted according to the Tenor thereof; but in the Case of Decrees in Absence the Amount of the Expenses decerned for need not be specified: Provided always, that the Pursuer, before extracting any Decree for Expenses pronounced in Absence of the Defender, shall have the Account of Expenses taxed in conformity with the existing Practice. Decree upon Summons and Claim shall specify Sum, and may be extracted.

19. Where the Action is in the Form of a Summons with a Bill annexed, it shall be lawful in any Interlocuter and Decree to be pronounced therein, either to set forth the Terms of the Judgment in the Interlocutor at length, or to decern generally in Terms of the Prayer of the Bill, or in Terms of such Prayer as amended or restricted; and such Interlocutor and Decree shall be a sufficient Warrant to the Extractor of the Court for the Insertion in the Extract thereof of the Particulars of such Prayer, or amended or restricted Prayer, in the same Manner as the Particulars contained in the Conclusions of the Summons are inserted in the Extract of a Decree in Terms thereof, according to the existing Practice. Decree upon Summons and Bill may be granted in Terms of Prayer. Provision as to Extract of such Decrees.

20. Every Decree for Expenses to be pronounced in the Court of Session shall be held to include a Decree for the Expense of extracting the same. Expenses to include Expense of Extract.

21. The Defender may appear at any Time before Decree is obtained, and if he appear after the Time within which Appearance ought to have been entered in virtue of the Provisions herein-before contained, he shall, after intimating such Appearance to the Pursuer's Agent, be in the same Position as to Pleadings and other Proceedings in the Action as if he had appealed in Time: Provided always, that a Defender appearing after the Time herein-before appointed shall not be entitled to any farther Time for Pleading or any other Proceeding than if he had appeared within such appointed Time. Defender may appear at any Time before Decree. Not to be entitled to farther Time for Pleading.

22. The Mode of Appearance in any Action or Proceeding under this Act shall be by lodging with the Clerk of the Process a Minute according to the following Form or to the like Effect: Form of entering Appearance.

'Minute of Appearance.

'In Causa *A.B.* against *C.D.* [*or* against *C.D.* and others].

'The Defender *C.D.* enters Appearance by *E.F.* [*specify the 'Name, professional Qualification, and Place of Business of 'Defender's Agent in the Court of Session.*]

'Entered the Day of 18 .'

Such Minute to bear the Date of the Day on which the same is lodged.

PART II.

Pleading in ordinary Actions.

Subject to the Exceptions herein before and after mentioned, the Mode of Pleading in all Actions in the Court of Session shall be as follows:

Facts may, of Consent, be stated in a Special Issue without Pleadings.

23. Where the Parties to an Action are agreed as to the Question or Questions of Fact to be decided between them, they may, at any Time after the Execution of the Summons, and before Judgment, by Consent, and Order of the Lord Ordinary or the Court (which Order the Lord Ordinary and the Court shall have Power to make, upon being satisfied that the Parties have an Interest in the Decision of such Question or Questions, and that the same is or are fit to be tried), proceed to the Trial of any Question or Questions of Fact, without formal Pleadings; and such Question or Questions may be stated for Trial in the Form of a Special Issue, and such Issue shall be held to be the Record in the Action, and may be enrolled for Trial, and tried accordingly, in the same Manner as an Issue joined in any ordinary Action; and the Proceedings in such Action and Issue shall be under and subject to the ordinary Control and Jurisdiction of the Court, as in other Actions.

Assessment of Debt or Damages in such Cases.

24. The Parties may, if they think fit, enter into an Agreement, which shall be embodied in a Minute, that on the Determination in the Affirmative or Negative of any such Special Issue a Sum of Money fixed by the Parties, or to be ascertained by the Jury upon a Question inserted in the Issue for that Purpose, shall be paid by One of such Parties to the other of them, either with or without the Expenses of the Action.

Application of Verdict, and Relief against erroneous Verdict in such Cases.

25. Upon the Finding of the Jury on any such Issue the Verdict of the Jury may be applied and Decree pronounced for such Sum as shall be so agreed or ascertained as aforesaid, with or without Expenses: Provided always, that all the Provisions herein-after contained relative to Proceedings for setting aside Verdicts, and the Application of Special Verdicts and Special Cases settled at Trial, and the Right of Appeal to the House of Lords, shall be applicable to Actions tried upon Special Issues.

Questions of Law may be stated in a Special Case without Pleadings.

26. The Parties may, at any Time after the Execution of the Summons, and before Judgment, by Consent, and Order of the Lord Ordinary or the Court, state any Question or Questions of Law in a Special Case for the Opinion of the Court, which shall be held to be the Record in the Action.

27. The

Assessment of Debt or Damages in such Cases.

27. The Parties may, if they think fit, enter into an Agreement, which shall be embodied in a Minute, that upon the Determination in the Affirmative or Negative of the Question or Questions of Law raised by such Special Case, a Sum of Money, fixed by the Parties, or to be ascertained by the Lord Ordinary or the Court, or in such Manner as he or they may direct, shall be paid by One of such Parties to the other of them, either with or without the Expenses of the Action; and Judgment shall be given for such Sum as shall be so ascertained or agreed, with or without Expenses, as the Case may be, which Judgment shall be subject to Review by Reclaiming Note and Appeal in the same Manner as a Judgment pronounced in any ordinary Action.

Condescendence to state different Causes of Action in distinct Articles.

28. When the Parties shall not agree to dispense with Pleadings, as herein-before provided, the Pursuer shall, within Eight Days after the Publication of the Case in the Calling List, lodge in Process a Condescendence of his Cause or Causes of Action, stating the different Causes of Action, when there are more than One, in separate Articles distinguished by Numerals.

Each Article to be complete in itself.

29. Each Article of a Condescendence shall contain One Cause of Action, and no more, and shall be so framed as to be complete in itself, without Reference to any other Article.

Facts how to be averred in the Pleadings of Parties.

30. It shall not be necessary in a Condescendence or any subsequent Pleading to state Matter of Law, or that which is merely Matter of Evidence, that is to say, such Circumstances or subordinate Facts as merely tend to prove the Truth of the Fact or Facts constituting a Cause of Action or Ground of Defence; and the Fact or Facts constituting a Cause of Action or Ground of Defence, as distinguished from the subordinate Facts and Circumstances by which they are to be proved, shall be stated with Certainty in the Terms in which the Pursuer desires that the same shall be affirmed, and in which the same may properly be affirmed by a Verdict or Judgment.

Pleadings not to contain any introductory Narrative.

31. The Parties shall not in the Condescendence or any subsequent Pleading state any explanatory Narrative introductory to the Averment of a Cause of Action or Defence. In particular, in Actions upon Contract or for Breach of Contract, the Parties shall not set forth any Facts antecedent to the alleged Contract, as, for Example, the Views or Motives of the Parties, or the Communings between them prior to the Contract, but the Contract itself shall be stated in the Terms in which it is desired that the same may be affirmed by a Verdict or Judgment of the Court.

 32. In

Particulars of Claim may be referred to as set out in an Account.

32. In every such Condescendence the Particulars of the Pursuer's Claim may be referred to as set out in an Account or Paper in the Nature of an Account lodged in Process as relative to the Condescendence, such Account or Paper being described by the Names of the Parties and the first and last Dates thereof; and where the Defender has a counter Claim which he is entitled to plead in Defence, he may in his Plea refer to the Particulars thereof as set out in a similar Account or Paper lodged in Process and similarly described.

Averment in Actions on Contract.

33. Where the Contract alleged in a Condescendence or any subsequent Pleading is in Writing, whether consisting of One or more Instruments or of Correspondence, and such Contract in Writing is referred to in the Condescendence (which may be done in any Terms sufficient to identify the Writings referred to), the Statement of the Contract in the Pleading shall be read by the Court with reference to the legal Import and Construction of such Writings, and so as to be consistent therewith in all respects, notwithstanding any Variance between the Statement and the Writings, unless it shall appear that the Contract as constituted by such Writings was in fact subsequently varied, in which Case Effect shall be given to such Variance; and it shall not be necessary for the opposite Party to deny or except to the Mode of stating any such Contract in Writing, in order to entitle him to a Judgment upon the Contract, according to the true legal Import and Construction of the actual Contract.

Averment in Actions for personal Injury.

34. In Actions of Damages for Assault, it shall be sufficient for the Pursuer to state that he was assaulted by the Defender, without specifying the Mode in which the Assault was committed, or the Injuries which were inflicted.

Averment in Actions for Injury to Property.

35. In Actions of Damages for Injury to Property, the Pursuer shall state the Nature of the Injury complained of, but need not state the Particulars of the Damage done.

Averment in Actions of Damages for Negligence.

36. In Actions of Damages for Negligence the Pursuer shall state distinctly the Duty which the Defender, or the Party whom he represents, was bound to perform to the Pursuer or the Party represented by the Pursuer, and shall not be entitled to a Judgment in his Favour unless he shall prove that the alleged Duty was in fact neglected.

Averment in Actions upon Fraud.

37. In Actions upon Fraud the Pursuer shall state distinctly the fraudulent Purpose for the Accomplishment of which the alleged Acts complained of were done by the Defender, and shall not be entitled

entitled to a Judgment in his Favour unless he shall prove that the Acts complained of were in fact done or committed for the Purpose specified in the Condescendence.

Averment in Actions for Defamation.

38. In Actions for Defamation, whether written or verbal, and whether privileged or not, the Pursuer shall be at liberty to aver that the Words or Matter complained of were used in a defamatory Sense, specifying such defamatory Sense, without any prefatory Averment to show how such Words or Matter were used in that Sense, and such Averment shall be put in Issue by the Denial of the alleged Libel or Slander; and where the Words or Matter set forth, with or without the alleged Meaning, show a Cause of Action, the Condescendence shall be sufficient.

Not necessary to aver Malice and Want of probable Cause.

39. In Actions for Defamation, whether written or verbal, it shall be sufficient for the Pursuer to allege that the Defamation was false and calumnious, and it shall not be necessary for him to allege that it was malicious or without probable Cause; but if it shall appear at the Trial that the Defamation is privileged, the Pursuer shall not be entitled to a Verdict unless he shall prove Malice as required by Law, and he may adduce Evidence of Malice either in Chief or in Replication.

Justifications in Actions for Defamations.

40. In all such Actions the Defender may justify the whole or Part of the Defamation alleged; and if the Jury shall find that Part of the Defamation has been justified and Part not, they shall find for the Pursuer, and assess Damages only in respect of so much thereof as has not been justified.

Defence of Privilege may be raised at the Trial, and need not be anticipated by the Pursuer.

41. If in any Action it shall appear at the Trial that the Act or Thing complained of was committed or done under such Circumstances that Evidence of Malice or Want of probable Cause, or both, is by Law necessary to entitle the Pursuer to a Verdict, the Pursuer shall be at liberty to adduce such Evidence, either as Part of his original Case or in Replication, although he has not on Record averred either Malice or Want of probable Cause, but the Record or Issue shall be amended so that it may cover such necessary Evidence.

Averment of Time, Place, and Quantity, &c.

42. Averments of Time, Place, Quantity, Quality, and Value shall be considered as Notice merely, and need not be proved, except when essential to the Cause of Action; and, subject to the same Exception, a Variance between the Averments and the Evidence with respect to such Matters shall be considered immaterial.

 43. Within

Defenders to answer the Articles of the Condescendence separately.

43. Within Eight Days after the Time allowed for lodging the Condescendence, or after the same has been lodged and intimated, if sooner lodged, the Defender shall lodge Defences, in which he shall separately answer each Article of the Condescendence to which he has an Answer either in Law or in Fact.

Objection to Relevancy of Ground of Action may be stated in the Form of a Demurrer.

44. If the Defender shall object to the Relevancy or Sufficiency in Law of any Article of the Condescendence as a Cause of Action, he shall do so in his Answer thereto in the following or similar Terms:

'The Defender says that the (First) Article of the Condescendence is bad in Law.'

And such Answer shall be called a Demurrer, and shall entitle the Defender to insist in all Objections in Law to such Article as a Ground of Action, and it shall be lawful to demur to the Relevancy of the whole Condescendence where it consists of more than One Article.

Denial of Ground of Action must be unqualified, and may apply either to the whole or a specified Part.

45. Where the Defender intends to deny the Truth in Fact of any Article of the Condescendence, or of any Averment in such Article, he shall do so in his Answer thereto by absolute and unqualified Words of Denial applicable to such Article or Averment, without any explanatory or counter Statement; and when any particular Averments not constituting the whole material Averments in the Article are denied, the Averments so denied shall be specified in the Words used in the Article in which they occur.

Express Admissions no longer required.

46. The Defender shall not in his Defences answer in Words any Article of the Condescendence, or any particular Averment which he admits to be true in Fact, but every Article and Averment not expressly denied in the Defences shall be held as admitted to be true in Fact, but always under Reference to any Contract or Writing therein referred to, as herein-before provided.

Counter Case may be stated in answer to any Article in the Form of a Plea.

47. With respect to any Article or Averment in any Article of the Condescendence to which the Defender has an Answer in Law in the Nature of a proper counter Case, he may set forth in his Answer to such Article the Facts on which he relies as affording an Answer in Law to such Article or Averment as a Cause of Action against him, or as avoiding the legal Consequences thereof; and any such Statement of a counter Case shall be called a Plea, and the Defender shall be at liberty to plead as many distinct Pleas as he may think proper in his Answer to each Article, each Plea being distinguished by a Numeral.

48. In

Facts how to be averred in the Defender's Plea.

48. In every such Plea the Defender shall, without any Detail of Circumstances, or Repetition of the Pursuer's Statement, state some Matter or Matters of Fact which he maintains as affording a sufficient Answer in Law to the whole or a material Part of the Article of the Condescendence to which it refers, or as sufficient to avoid the legal Consequences thereof; and such Statement shall be so expressed as to show the Effect to which it is pleaded, and shall be made in the Terms in which the Defender desires that the same shall be affirmed, and in which it may properly be affirmed by a Verdict or Judgment.

Pursuer may lodge a Replication to the Defender's Plea, in which he may deny or aver specially, or demur.

49. Within Eight Days after Defences are due or have been lodged and intimated, the Pursuer shall, if they contain any Plea which he desires to answer, but not otherwise, be at liberty to lodge a Replication, in which he shall answer every such Plea to which he has any Answer, in like Manner and subject to the same Provisions as are by this Act made applicable to the Defender's Answers to the Condescendence. And the Pursuer may demur to any Averment in the following or similar Terms:

'The Pursuer says that the (*First*) Defence is bad in Law.'

Which shall be taken to mean that the Plea, if true, is not sufficient as an Answer in Law to the Article to which it applies, and is not sufficient to prevent the Pursuer from recovering in respect of that Article.

Replication not to contain any express Admissions.

50. The Pursuer shall not in his Replication answer in Words any Plea or any particular Averment which he admits to be true in Fact, but every such Plea and every Averment not expressly denied in the Replication shall be held to be admitted to be true in Fact.

Defender may lodge Rejoinder to Averment in Replication.

51. Should the Pursuer have lodged a Replication containing new Averments which the Defender shall desire to answer, but not otherwise, the Defender shall be at liberty, within Eight Days, to lodge a Rejoinder, in which he shall answer in manner herein-before provided with reference to the Defender's Answers to the Condescendence any such new Averments to which he has an Answer, and may also demur to any such new Averment in the Form herein-before provided or a similar Form.

Pleadings to be lodged without Order of Court at the proper Time, but may be received afterwards by Consent or Order.

52. The Condescendence, Defences, Replication, and Rejoinder shall, with the endorsed Summons or Summons and Bill, constitute the Record, and the said Pleadings shall be prepared and lodged in the Manner and within the Periods herein-before provided, without the Necessity of any Order for that Purpose; and no Pleading shall be received after the Expiry of the Period by this Act provided for

for lodging the same, except of Consent of the opposite Party, or upon an Order of the Lord Ordinary endorsed on the Pleading itself, which shall not be subject to Review; and the Expense of any Pleading received upon such Order shall not afterwards be allowed as a Charge against the opposite Party.

Pleadings not to contain Repetition of previous Statements.

53. Neither Party shall be at liberty to revise any Pleading, and neither Party shall be allowed in any Pleading to repeat any Answer made by him in any previous Pleading, but every Pleading shall consist of Answers and Averments which are not contained in any previous Pleading.

Pleading, when to be held as concluded.

54. When the Defences contain no Pleas in answer to the Condescendence, the Record shall be considered as completed so soon as the Defences are lodged; and when the Replication contains no substantive Averments in answer to the Defender's Pleas, the Record shall be considered as completed so soon as the Replication is lodged, and otherwise, it shall be so considered so soon as the Rejoinder is lodged. And should any Pleading (other than Defences) allowed by this Act not be lodged within the specified Period, or subsequently of Consent of the opposite Party, the opposite Party may, after the Expiry of Four Days from the Elapse of the Period by this Act allowed for lodging such Pleading, enrol the Case before the Lord Ordinary, and move that the Record in the Cause shall be held as completed, and the Lord Ordinary shall pronounce an Order to that Effect, unless the Pleading omitted to be lodged shall be produced at the Bar, and he shall think fit to order it to be received.

Lord Ordinary empowered to amend Pleadings before closing the Record.

55. So soon as the Record is complete, the Papers shall be transmitted to the Lord Ordinary, who shall consider the Pleadings, and if necessary shall direct any of them to be withdrawn, and new ones to be substituted, or allow or direct such Amendments to be made on any of the Pleadings, by marginal Addition, Deletion, or otherwise, as he shall judge necessary or proper, with a view to raise in convenient and proper Form the whole Matters of Fact and Law which are truly in controversy between the Parties; and after such Amendments or Alterations on the Pleadings as the Lord Ordinary may allow, or if no such Amendment is allowed, then as soon as the Lord Ordinary shall have had an Opportunity of considering the Pleadings, the Case shall be put to the Roll by his Directions for the Purpose of determining the further Course of Procedure therein; and it shall not be necessary to declare the Record closed in any Proceedings under this Act.

56. The

Arrangement of Pleadings in the Record.

56. The Record shall be printed by the Pursuer, who shall furnish the Defender or Defenders with such Number of Copies as they shall require, and the Expense of Printing shall be equally divided. In the printed Record the Pleadings shall be so arranged that the Defences to the First Article of the Condescendence, and all subsequent Pleadings having relation thereto, shall be printed in immediate Sequence to that Article; and the Replication and Rejoinder, if any, shall be printed in immediate Sequence to the Plea to which they respectively relate; and the other Articles of the Condescendence, if any, with the relative Pleadings, shall be added in their Order.

Defining Actions for Payment of Money

57. And whereas it is provided in Part First of this Act that all Actions for Payment of Money may be instituted by a Summons under this Act, without any Bill or Prayer annexed thereto, and it is desirable that such Actions should be defined: Be it enacted and declared, That for the Purposes of this Act Actions for Payment of Money shall be he held to comprehend the following among other Actions of Debt; viz.

(1.) Actions for Price, Value, or pecuniary Consideration laid on any Contract of Sale, including Actions on Bills of Lading and Delivery Orders, and Actions on Executory Contracts of Sale, and Orders for the Supply of Goods:

(2.) Actions for Price, Value, Recompence, or other pecuniary Consideration laid on any Contract of Location, express or implied, including Actions for the Rent or Hire of any Real or Personal Property, Actions for Work and Labour, Actions for professional or other Services, Actions for Brokerage or Commission, Actions for Wages or Salary, and Actions for Freight and for the Carriage of Goods or Passengers:

(3.) Actions for Money lent or received on account of the Pursuer, or the Party whom he represents:

(4.) Actions for Money due upon any Bond, Bill, or Promissory Note, or other written Obligation for the Payment of Money:

(5.) Actions laid upon Contracts of Indemnity, including Actions on Policies or Contracts of Insurance, whether for Premiums or for the Sum insured, and Actions on Cautionary Obligations and Guarantees, whether at the Instance of the Obligee, or at the Instance of the Cautioner or Surety, for Relief, or for Payment of Premiums for the Risk:

(6.) Actions for Payment of any Legacy, Share of the Proceeds of Heritable or Moveable Succession, or Marriage Contract Provision,

Provision, where there is no Question as to the Construction of the Will or Settlement, or the fiduciary Character of the Defender:

(7.) Actions upon any implied Contract or Obligation upon which Money is due, including Actions for Restitution or Recompence upon any implied Obligation for safe Custody and Care or safe Carriage of Goods:

And Actions for Payment of Money shall also be held to comprehend the following among other Actions of Damages; viz.

(1.) Actions of Damages for Injury to Property where the Title is not in question, for Injury to Person or Reputation where the Status of the Person is not in question, and for Loss of Life:

(2.) Actions of Damages for the Breach of any Contract, express or implied:

(3.) Actions of Damages for the Violation of any Duty, public or private, whereby the Pursuer has been injured:

(4.) Actions of Damages for Negligence or Want of Skill in the Performance of any Contract, Duty, or Obligation:

(5.) Actions of Damages for Fraud or Deceit:

(6.) Actions of Damages for Nuisance:

(7.) Actions of Damages for Infringement of any Patent Right, Copyright, Right to any registered Work of Art or Design, or other exclusive Privilege regulated by Statute.

Disposal of Question of Fact or Right in Actions for Payment of Money.

58. Actions for the Payment of Money as herein-before defined, and the Defences to such Actions, shall and may be effectually maintained without the Necessity of affirming or negativing by Declarator any Fact or Right upon the Affirmance or Negation of which such Action or Defences may be dependent, and without the Necessity of setting aside by Reduction any Deed, Document, Act, or Transaction which may stand in the Way of such Action or Defence; and in all such Actions the Court shall and may, in so far as necessary for the Decision thereof, according to the very Truth and Right of the Matter, determine any Question of Fact or Right as in a Declarator of such Fact or Right, and the Validity of any Deed, Document, Act, or Transaction as in a Reduction thereof, but that only for the Purposes and to the Effect of determining the Right of the Pursuer to recover the Sum of Money claimed from the Defender.

Forms of Pleading in Schedule may be adopted.

59. And whereas it is desirable that Examples should be given of the Statements of Causes of Action and of Forms of Pleading: Be it enacted, That the Forms contained in the Schedule (D.) to this Act annexed shall be sufficient, and those and the like Forms may be used, with

with such Modifications as may be necessary to meet the Facts of the Case; but nothing herein contained shall render it erroneous or irregular to depart from the Letter of such Forms, so long as the Substance is expressed without Prolixity.

Pleading affirmed by one Party and denied by the other to constitute an Issue.

60. Every Pleading or Article of any Pleading which is denied in whole or in part by the opposite Party shall to the Extent to which the same is denied be held to be an Issue in the Cause, and may be tried as such by a Jury, such Trial upon Issues contained in the Pleadings of the Parties being herein-after termed a Trial upon the Record.

Procedure in Multiplepoindings and Actions of Competition.

61. In Actions of Multiplepoinding it shall be the Duty of the Party raising such Action to state specifically in the Bill who is the real Raiser of the Action; and in all such Actions the Raiser shall lodge with the Summons a Condescendence of the Grounds of Action, in which, or in a separate Account or Statement of Particulars lodged with the Condescendence, and referred to therein, the Particulars of the Fund in medio may also be set forth; and if no Defences or Objections to the Statement of the Fund are lodged, or after all Defences or Objections have been disposed of or reserved, the Lord Ordinary shall appoint Claims to be given in within a certain Time, which may, if necessary, be prorogated; and nothing herein contained shall affect the Power of the Court to receive Claims at any Stage of the Proceedings, upon such Grounds as would be competent under the existing Practice.

In such Actions Record to consist of Condescendences and Claims.

62. Such Claims shall consist of a Condescendence in the Form herein-before provided, with a Prayer or formal Claim annexed thereto, according to the Form hitherto in use, but shall not contain Pleas in Law; and it shall be lawful for any of the Parties, although not claiming on the same Grounds, to give in a joint Claim; and it shall not be necessary in any Claim to repeat any material Part of the Statement in the Raiser's Condescendence, or merely to give a different Account of the Facts therein stated, but each Claimant's Condescendence may be commenced by a Reference to the Raiser's Statement, or to such Part thereof as he admits to be true; and subject to this Qualification, every such Condescendence shall consist of new Allegations of Fact in support of his alleged Title to the Fund or Property in competition, which shall be so stated as to disclose the Grounds of his Claim.

Condescendences and Claims may be amended by marginal Addition.

63. The Lord Ordinary shall allow each Claimant One Opportunity of amending his Condescendence and Claim, after he shall have seen the original Claims of the other Parties, and such Amend-

ment shall and may be made by way of Addition, at the Discretion of the Parties, upon the Margin of the original Condescendence and Claim, or, if necessary, upon Sheets of Paper added or interleaved; but it shall not be lawful for any Claimant to amend his Condescendence and Claim by deleting any Part thereof, except by Leave of the Lord Ordinary or the Court, upon just Cause shown. The Record in the Competition shall consist of the several Condescendences and Claims, and it shall not be necessary in any such Claim or amended Claim to answer the Averments contained in any adverse Claim.

Claims not to be answered.

Other Actions of Competition.

64. The Provisions herein-before contained relative to Pleading in Actions of Multiplepoinding shall, in so far as applicable, extend to all other Actions of Competition.

In Actions of Declarator, &c. instituted to try a Question of Property or Succession, the Defender may lodge a Cross Bill in place of Defences.

65. In all Actions of Declarator, and of Reduction instituted for the Purpose of establishing or contesting a Right to or beneficial Interest in any Real or Personal Property, or Heritable Right, or any Right to or Interest in Funds or Estate which are the Subject of Destination under any Will, Testamentary Disposition, or Settlement, inter vivos, and also in all Actions instituted in the Form of a Summons and Bill, and which truly raise a Question of Competition for any such Right or Interest as aforesaid, although not containing an express declaratory or rescissory Prayer, in all such Cases any Defender, duly cited or admitted to plead, if he claims the Property, Fund, or Estate which is the Subject of the Pursuer's Claim, or Part thereof, or any Right or Interest therein, adverse to or restrictive of the Interest claimed by the Pursuer, shall and may, within the Time herein-before allowed for lodging Defences, (without the Necessity of raising any counter Summons,) lodge a Cross Bill, with a Condescendence annexed, in place of Defences, in which he shall pray for a Judicial Declaration of the Right which he claims to the Subject of Competition, together with such other Prayer as may be necessary to transfer the Subject, or render his Right effectual.

In case Cross Bill incompetently lodged, Defences may be substituted.

66. In case a Cross Bill shall be incompetently lodged in any Action in the Court of Session, and Objection shall be taken thereto, the Lord Ordinary or the Court may allow it to be withdrawn, and Defences to be substituted, provided that such Substitution shall not invalidate the Proceedings previously taken; and in case the Lord Ordinary shall think proper to determine the Matter of the Competency of any Cross Bill, his Determination shall be final.

67. The

67. The Condescendence annexed to the Cross Bill shall be in the Form provided by this Act; and in all Actions in which the Defender shall lodge a Cross Bill such Defender shall be considered as a Claimant, and the Action shall be considered an Action of Competition between the Pursuer and Claimant or Claimants; and in all such Actions the Record shall be completed by Amendment of the respective Bills and Condescendences in manner herein-before provided with respect to Condescendences and Claims.

Where Cross Bill lodged, Record to be made up by Amendment of Condescendences.

68. Where in any Action instituted under the Authority of this Act the Pursuer shall pray for Reduction of any Deed or Writing, the Defender shall be required, by a Notice in the Body of the Summons (Schedule A. No. 1), to produce the Deed or Writing of which Reduction is sought; and in the event of the Defender failing to make Production thereof along with the Defences or Cross Bill, the Pursuer may apply for an Order upon the Defender to produce the Deed, and, if necessary, for a Diligence to recover it; and in default of Recovery within the Time appointed, he shall have the same Right to obtain Decree of Certification contra non producta as the Pursuer in an Action of Reduction in the existing Form: Provided always, that every Deed or Writing of which Reduction is sought shall be separately and distinctly specified in the Prayer of the Bill, so as that the same may be identified, and it shall not be lawful to insert a general Prayer for Reduction in any Bill under this Act.

In Actions of Reduction the Pursuer may move for an Order for Recovery of the Deed.

69. If the Lord Ordinary, after hearing Parties upon the Motion for an Order to produce, or Diligence to recover the Deed, shall be of opinion that the Pursuer has not set forth a primâ facie Title to insist in the Action, or that the Documents produced by the Defender constitute a preferable and exclusive Title to the Subject in dispute, or that the Pursuer has not sufficient Interest to insist in the Action, he may dismiss the Action or assoilzie the Defender, according to the Nature of the Case; but if otherwise he shall grant the Order or Diligence required, without pronouncing any Deliverance upon the Merits of the Objections stated to such Order.

The Defender may object to such Order on the Ground that the Pursuer has no Interest.

70. In case the Parties to any Action of Competition shall consent to have the Questions in dispute stated in the Form of a Special Issue or Special Case, as herein-before provided, it shall not be necessary to make up a Record; and Decree pronounced upon such Special Issue or Special Case shall be as effectual as a Decree pronounced in conformity with the Prayer of a Cross Bill or Claim.

Procedure in Actions of Competition tried on a Special Issue or Special Case.

Pleading in Actions of Accounting.

71. In Actions of Accounting it shall not be necessary for any of the Parties in their Pleadings to set forth the Matters in dispute, in so far as these consist of Questions of Accounting, or of Objections to the Statement or Omission of any Items or Particulars of the Accounts which are in dispute.

Provision as to Actions ad factum præstandum.

72. It shall be lawful in the Prayer of any Bill under this Act to pray for a Decree or Judgment decerning and ordaining the Defender to do or perform any Matter or Thing which such Defender may lawfully be compelled to do or perform by Civil Process; saving and excepting all Matters in relation to which exclusive Jurisdiction has been conferred by Statute on any other Court in Scotland; and it shall also be lawful in such Bill to pray for Interdict.

Action of Declarator to imply Reduction of competing Titles.

73. Every Action and every Cross Bill of Declarator shall be held to imply a Reduction of the competing Titles of Defenders, in like Manner as Reductions of the competing Titles of Claimants is by the existing Practice held to be implied in Actions of Multiplepoinding.

Not necessary to repeat Summons of Reduction in any Case to enable Defender to obtain Decree of Absolvitor.

74. It shall not be necessary for the Defender in an Action of any Kind instituted in the Court of Session to repeat a Summons of Reduction, or to institute an Action of Reduction, for the Purpose of enabling him to state by way of Defence any legal Objection to any Deed or Writing, Right or Title, founded on by the Pursuer, but all such Objections may be pleaded and maintained as Matters of Defence, to the Effect of enabling the Defender to obtain Decree of Absolvitor, but nothing herein contained shall prevent the Defender from instituting an Action of Reduction and having the Actions conjoined for the Purpose of enabling him to obtain a positive Decree in his Favour.

Procedure in lieu of Actions of proving the Tenor.

75. It shall not be necessary to institute an Action of proving the Tenor to enable a Party in any depending Action to found upon any Deed or Writing accidentally lost or destroyed, but the Contents of any such Deed or Writing may be proved by secondary Evidence in an Action of any Form, after it has been established by sufficient Evidence that such Deed or Writing was lost or destroyed, without being thereby revoked or cancelled: Provided always, that in lieu of Actions of proving the Tenor, which are hereby abolished, it shall be lawful for any Party desirous of proving the Tenor of any such Deed or Writing judicially, for the Purpose of preserving Evidence thereof, to apply to the Inner House by Summary Petition to the like Effect as in an Action of proving the Tenor; and Judgment shall not be given in favour of the Petitioner until the Grounds of his Application shall have been substantiated by sufficient Evidence.

76. The

76. The Procedure in Consistorial Actions, in so far as relates to the making up of the Record and the Mode of taking Proof and reclaiming, shall be the same as in other Actions instituted under the Authority of this Act; provided that in other respects such Actions shall be regulated by the Provisions of an Act of the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter Eighty-six, intituled "An Act to amend the Law "regarding Conjugal Rights in Scotland," in so far as these are not inconsistent with this Act; provided also, that the Lord Ordinary shall in all Actions of Divorce administer the usual Oath of Calumny to the Pursuer, and that no Decree or Judgment in favour of the Pursuer shall be pronounced in any such Action, or in any Action of Declarator of Marriage, of Nullity of Marriage, Legitimacy, or of Bastardy, or in any Action of Adherence, or of Separation a mensâ et thoro, whether Appearance shall or shall not be made for the Defender, until the Grounds of Action shall have been substantiated by sufficient Evidence.

Consistorial Actions regulated.

77. Actions of Cessio Bonorum shall in future be instituted only in the Sheriff Courts. In lieu of Actions of Cognition and Sale, which are hereby abolished, an Application to sell the Estate of the Ward may be made by way of summary Petition, to be presented in the first instance to One of the Lords Ordinaries, or to the Lord Ordinary officiating on the Bills in Vacation or Recess. Actions of Ranking and Sale, of Division of Commonty and Runrig Lands, and all other Inner House Actions, (except Summary Petitions incident to Processes depending in the Inner House,) shall proceed in the first instance before One of the Lords Ordinaries, who are hereby empowered to hear and determine all such Actions, their Determination being subject to Review as in other Actions.

Regulations as to Actions formerly appropriated to the Inner House.

PART III.

General Regulations as to Procedure subsequent to Pleading.

And with respect to the Determination of the Course of Procedure and the Preparation of Causes for Trial and Discussion, be it enacted as follows:

78. The following Actions shall be considered to to be appropriated to Jury Trial:

Certain Classes of Actions appropriated to Jury Trial.

(1.) All Actions in which the Summons is endorsed in the special Form herein-before provided:

(2.) All Actions which the Lord Ordinary may direct to be tried by Jury under the subsequent Provisions of this Act.

Unless necessary first to dispose of Questions of Law, the Lord Ordinary shall appoint Action to be tried by Jury.

79. In all appropriated Actions where there is no Demurrer upon Record, or where, although some of the Pleadings have been demurred to, the Lord Ordinary shall be of opinion that the Questions of Law thereby intended to be raised may be conveniently disposed of at or subsequent to the Trial, the Lord Ordinary shall, when the Case appears in the Roll by his Direction, as herein-before provided, pronounce in such Action a Deliverance in the following Terms or to the like Effect:—

'In respect the Action is in the Opinion of the Lord Ordinary 'appropriate to be tried by Jury, the Lord Ordinary appoints the 'same to be tried before himself and a Jury on a Day to be after-'wards named, unless the Case shall be removed to the Inner House, 'for the Purpose of being tried at the Inner House Sittings or on "Circuit, in Terms of the Court of Session (Scotland) Act, 1863:'

And it shall not be incumbent on the Lord Ordinary to hear the Parties before pronouncing the said Deliverance, but he may require the Parties to give such Explanation of the legal Questions intended to be raised by Demurrer as shall be necessary to enable him to determine upon the proper Course of Procedure; and in case the Lord Ordinary shall determine in conformity with the preceding Form, his Deliverance shall not be subject to Review, either upon the Ground that the Action is not truly one of the Class appropriated to Jury Trial, or upon any other Ground whatever.

Case may be removed to Inner House for Trial at Sittings or Circuit, and Court may, if necessary, remit or fix a Special Diet.

80. Within Eight Days after any Interlocutor of the Lord Ordinary appointing the Case to be tried before himself and a Jury, either Party may remove the Case to the Inner House, for the Purpose of having the same tried at the next Sittings or on Circuit; and the Case shall be so removed by Motion in the Form of a Note addressed to the Lord President of the Division, lodged with the Clerk, and intimated to the other Parties within the said Period of Eight Days; upon which Motion the said Division shall pronounce an Interlocutor appointing such Case to be tried at the next Inner House Sittings (or at the next Circuit Court, if the Prayer is to that Effect, and the Court shall think expedient to grant it): Provided always, that if from the State of the Business of the Court, or for other Reasons, it shall appear that the Case cannot be tried at the ensuing Sittings or Circuit, as the Case may be, the Court may direct the Case to be tried before the Lord Ordinary, and remit to his Lordship for that Purpose, or may for any just and sufficient Cause postpone the Trial to some subsequent Sittings or Circuit, or fix a Special Diet for the Trial of such Cause in the ensuing Vacation.

81. If

Court may direct an Issue for Trial.

81. If the said Division shall be of opinion that the Action cannot be conveniently tried upon the Record, it shall be lawful for them to state in an Interlocutor an Issue or Issues upon which the Action shall be tried; but if otherwise, or if the Case shall be allowed to remain before the Lord Ordinary, the Trial shall be upon the Record.

Procedure before Lord Ordinary for Disposal of Questions of Law before Trial.

82. When it shall appear to the Lord Ordinary that there are Questions of Law raised by Demurrer which cannot be conveniently disposed of at or subsequent to the Trial, he shall, without pronouncing any Interlocutor, put the Case to the Roll for a Summary Hearing upon such Questions of Law, and shall, after hearing Parties thereon, pronounce such Interlocutor as may be just, which Interlocutor shall be subject to Review, and may either by the same or a subsequent Interlocutor direct the Action, or such of the Issues raised by the Pleadings of the Parties as remain, after giving effect to the Findings of the said Interlocutor, to be tried by Jury, before himself and a Jury, unless the Case shall be removed to the Inner House for the Purpose of being tried at the Sittings or on Circuit.

Review of Lord Ordinary's Judgment disposing of such Questions.

83. When any appropriated Action shall come before One of the Divisions of the Court on a Reclaiming Note against an Interlocutor of the Lord Ordinary disposing of Questions of Law before Trial, it shall be lawful for the said Division, without disposing of such Question of Law, to recal the Interlocutor, and appoint the Action to be tried either before the Lord Ordinary or at the Sittings or on Circuit, as may be most expedient; and if the said Division shall dispose of the Questions of Law submitted to Review, they shall also determine whether any and what Question of Fact shall be sent to Trial, and in what Manner.

Demurrer may be obviated by an Amendment of the Pleadings.

84. Where it shall appear to the Lord Ordinary or the Court that any Objections taken by one Party to the Pleadings of the other Party, whether by Demurrer or otherwise, are such as may be obviated by an Amendment of the Record or Pleadings, such Amendment as may be necessary shall be allowed, the Expenses occasioned thereby, if any, being in the Discretion of the Court; and such Amendment may be made either by way of Manuscript Correction upon the original Paper or upon the printed Record, or in a separate Minute, and shall be authenticated by Counsel in the usual Way; and all Averments of res noviter veniens ad notitiam, or emerging since the Commencement of the Action, may be made in the Form of an Amendment of the Record, the Costs of such Amendment being always in the Discretion of the Court.

Res noviter.

85. Notwith-

All Actions resolving into Questions of mere Account to be remitted to an Accountant for Inquiry.

85. Notwithstanding any of the Provisions of the foregoing Sections, it shall be lawful in any Action, whether belonging to the Class appropriated to Jury Trial or not, if it shall appear to the Lord Ordinary that the Matter in dispute in such Action is substantially or may be resolved into a Question of mere Account, it shall be lawful for the said Lord Ordinary either before Answer, or after hearing the Parties upon any Questions of Law or Relevancy arising upon the Record, to remit to an Accountant, with Instructions to take Evidence, and to report on the Matters in dispute, in manner provided in Part V. of this Act; and the Lord Ordinary's Deliverance remitting any such Case as aforesaid shall be final, without Prejudice to the Right of either Party to reclaim against any other Finding or Deliverance which may be contained in the same Interlocutor: Provided also, that the Lord Ordinary may in any appropriated Action, with the Consent of the Parties, direct the Proof to be taken in one of the other Modes provided by this Act.

Procedure in Actions not appropriated to Jury Trial, where Probation renounced.

86. In all Actions not appropriated to Jury Trial the Lord Ordinary shall, when the Case appears in the Roll by his Direction, as herein-before provided, require the Parties to state positively whether they renounce Probation, or desire to adduce Evidence in support of their Averments; and if Probation shall be mutually renounced, a Minute to that Effect shall be endorsed on the Interlocutor Sheet, and signed by Counsel, and the Case shall then be sent to the Debate Roll.

The Lord Ordinary shall allow a Proof, unless necessary first to dispose of Questions of Law.

87. Where Probation is not renounced, then, unless it shall appear to the Lord Ordinary that there are Questions of Law raised on the Record which cannot conveniently be disposed of at or subsequent to a Trial or Proof, he shall in the first instance allow to the Parties a Proof of their respective Averments, and shall at the same Time determine whether the Proof shall be taken by Jury Trial or otherwise, in conformity with this Act; and the Lord Ordinary may in like Manner allow to the Parties a Proof or Trial of such Issues of Fact as remain after disposing of the Questions of Law which may have been argued before him in the first instance.

Lord Ordinary may appropriate the Action to Jury Trial, and direct accordingly.

88. If it shall appear to the Lord Ordinary that the Issues of Fact arising upon the Record are such as ought to be tried by Jury, he shall pronounce a Deliverance in the Form herein-before provided, directing the Action to be tried before himself and a Jury, which Deliverance shall not be subject to Review by Reclaiming Note, and the Action shall thenceforth be considered and dealt with as an Action appropriated to Jury Trial under this Act.

89. It

89. It shall be lawful to either of the Divisions of the Court, in any Action coming before such Division, whether by Reclaiming Note or by Motion to fix the Trial, to state an Issue or Issues in an Interlocutor, and to direct the Action to be tried upon such Issues either at the Inner House Sittings, on Circuit, or before the Lord Ordinary and a Jury. The Court may in any Case state an Issue for Trial in an Interlocutor.

90. Where the Questions of Law arising upon the Record have not been disposed of before Trial, the Parties shall be entitled to be heard upon such Questions of Law after Trial, along with or as counter to any Motion for the Application of the Verdict of the Jury; or such Questions of Law may be argued along with any Questions of Law reserved at the Trial for the Consideration of the Court, or arising upon a Special Verdict or Case; and where any Cause has been tried at the Inner House Sittings or on Circuit, or has been removed to the Inner House after Trial for any Purpose, all Questions of Law remaining undisposed of shall be disposed of by the Inner House in the first instance, and it shall not be lawful to remit the Cause to the Lord Ordinary for the Disposal thereof. Disposal of Questions of Law remaining after a Trial.

91. The Lords Ordinaries in the Outer House are hereby authorized and required to proceed with the Hearing of Cases in the Debate Roll continuously, and as nearly as may be in the Order in which the Cases are put out for Hearing; provided that in case Counsel for the Party taking the Lead in the Debate shall be actually engaged in the Inner House, or at the Bar of some other Lord Ordinary, Counsel for the other Party may be required to open, and the junior Counsel shall in all Cases reply in the Absence of senior Counsel on the same Side; and unless Counsel on both Sides are actually engaged at other Bars, the Debate shall not be postponed, but the Lord Ordinary shall either give Judgment by Default, if a Motion is made to that Effect, or cancel the Enrolment. Outer House Debates regulated.

92. In pronouncing Judgment on the Merits of a Cause, the Lord Ordinary shall also determine the Matter of Expenses, and in disposing of any Reclaiming Note or Appeal the Inner House shall at the same Time determine the Matter of Expenses of such Reclaiming Note or Appeal. Expenses.

93. It shall be lawful for the Pursuer in any Action in the Court of Session to abandon the Action, on paying full Expenses to the Defender, and to bring a new Action, if otherwise competent, at any Time before an Interlocutor has been pronounced assoilzieing the Defender, in whole or in part, or leading by necessary Inference to such Absolvitor; provided that after partial Absolvitor the Pursuer Pursuer may abandon Action at any Time before absolvitor.

Provision as to Abandonment of Action in the course of a Jury Trial.

shall be entitled to abandon the Action, in so far as the same is not already disposed of; and it is hereby expressly provided and declared, that the Action may be so abandoned in the course of a Jury Trial at any Time before the Judge has given his final Directions to the Jury, in which Case the Jury shall be discharged without returning a Verdict: Provided also, that the Judge may, before finally charging the Jury, if he considers the Pursuer's Pleadings, or the Evidence adduced in support thereof, to be defective, and insufficient to warrant a Verdict in his Favour, require the Pursuer to state whether he will consent to abandon the Action; and in the event of his refusing to do so at the Time, he shall not afterwards be entitled to abandon the Action, but the Jury shall be required to return a Verdict, and the Action shall thereafter remain subject to the Control of the Court.

Averment or Denial of Averment may be withdrawn at any Time.

94. Either Party may at any Time lodge a Minute in Process withdrawing any Averment or Denial of any Averment; and where in consequence of such Withdrawal no Issue of Fact shall remain for Disposal, the Case may be enrolled, and disposed of as if no Issue of Fact had been raised upon the Record; provided that any Expense incurred by the opposite Party in consequence of any such Averment or Denial as aforesaid shall be taken into consideration in the ultimate Disposal of the Cause.

PART IV.

Jury Trial and subsequent Procedure.

And with respect to the Trial of Causes and Issues of Fact by Jury, and the Procedure therein after Verdict, be it enacted as follows:

Lord Ordinaries may try Causes either during Session or in Vacation.

95. Any Cause falling to be tried before the Lord Ordinary may immediately be enrolled in his Lordship's Roll of Jury Trials, and thereafter, on the Motion of either Party, the Lord Ordinary shall appoint a Diet for such Trial, being at a suitable Time during the then current Session, or at a Sittings to be held by such Lord Ordinary immediately after the Termination of such Session, or during the Christmas Recess, which Sittings the Lords Ordinaries are hereby required to hold, if there be any Causes remaining untried, and entered as ready for Trial at those Periods respectively.

Inner House Trials may proceed when the Division is not sitting.

96. Trials of Causes depending in the Inner House may proceed at all such Times, as well during Session as in Vacation and Recess, as the Division of the Court in which the Cause depends may appoint,

appoint, and all Causes remaining for Trial, and entered as ready for Trial at the Termination of the Winter or Summer Sessions, or at the Commencement of the Christmas Recess, shall be tried at Sittings of the Court to be held immediately after those Periods respectively, excepting only such Causes as on the Motion of either Party the Court may think fit to postpone.

Causes appointed to be tried on Circuit held to be in the Innner House.

97. Every Cause appointed to be tried on Circuit shall be held to be depending before the Division of the Court to which the Cause belongs.

Postponement of Trial.

98. It shall be lawful for the Lord Ordinary or the Court, on the Motion of either of the Parties, to postpone any Trial appointed to take place in any Action depending before such Lord Ordinary or Division respectively, for any just Cause, and at the same Time to award to the opposite Party any Expense which he may have properly incurred in preparing for the Trial; and the Powers of the Division in relation to Postponement of the Trial, and all other incidental Applications in Causes appointed to be tried by Jury, may, in time of Vacation or Recess, be exercised by the Lord President of the Division, or the Judge who may have been requested by the said Lord President to preside at the Trial.

Regulation as to Judges who shall preside at Trials.

99. All Causes appointed to be tried at the Inner House Sittings may be tried by One or other of the Judges of the Division to which the Cause is appropriated, or by any other Judge acting at the Request of the President of the Division. Causes appointed to be tried on Circuit may be tried by either of the Judges of Justiciary officiating at such Circuit, or by any Judge of the Court of Session acting at their or his Request; and Causes appointed to be tried before the Lord Ordinary may be tried either by himself or by another Judge acting at his Request, or by Appointment of the Division in which the Action depends.

Citation of Witnesses, and Recovery of Documents.

100. A Copy of the Interlocutor fixing the Trial, certified by the Clerk to the Process or by his Assistant, shall be a sufficient Warrant to any Messenger-at-Arms to cite Witnesses and Havers to the said Trial, either for the Pursuer or the Defender; and the Lord Ordinary or the Court may, if necessary, grant Commission and Diligence for the Recovery of documentary Evidence at any Stage of the Cause; and all such Commissions as are to be executed in Edinburgh shall be directed to the Examiners of Court appointed in virtue of this Act.

 101. Where

Jury to be summoned by Precept from the Clerk of Court.

101. Where a Trial or Trials shall be appointed to take place at the Inner House Sittings, or before the Lord Ordinary, a Jury shall be summoned by virtue of a Precept to be issued by the Clerk of the Process for the Trial of the Cause or Causes therein named at Edinburgh, in like Manner as Juries are summoned to the High Court of Justiciary, and a List of Jurors shall for that Purpose be returned to the Clerk of the Process, as provided by the Act of the Sixth Year of King George the Fourth, Chapter Twenty-two, and the Act of the Seventh Year of King George the Fourth, Chapter Eight, and the Number of Jurors required shall be specified in such Precept, being not less than Thirty-six nor more than Fifty: Provided always, that no practising Advocate, Writer to the Signet, Solicitor, or Procurator before any of the Supreme or Inferior Courts, shall be returned or summoned to serve on such Jury, or on any Special Jury.

Circuit Cases may be tried by the Jury of the Assize.

102. In Trials on Circuit the Jury shall be taken from the Lists of Jurors for the Trial of Criminal Offences, unless the Court shall see reason to appoint a Jury to be summoned for the Trial of any Cause on Circuit by Precept of the Clerk of the Court in manner hereinbefore provided, in which Case such Precept shall specify a Place and Time for such Trial.

Common Jury Ballot.

103. The Clerk of Court officiating at the Trial, either at Edinburgh or on Circuit, shall cause the Name and Designation of each and every Person who shall be included in the List of Jurors returned to him and summoned as aforesaid to be written on several and distinct Pieces of Paper or Parchment, all the Pieces being the same Size, and shall cause the Pieces to be rolled up as nearly as may be in the same Shape, and to be put together in a Box or Glass provided for that Purpose, and the Clerk shall draw out the said Pieces of Paper or Parchment One by One; and if any of the Persons whose Names have been so drawn shall not appear, or shall be challenged and set aside, then such farther Number until Twelve Persons be drawn who shall appear; and after all Causes of Challenge shall be allowed or disallowed, the said Twelve Persons so first drawn and appearing, and approved as indifferent, their Names being marked in the List, and they being sworn, shall be the Jury to try the Cause; and it is hereby provided that in challenging the Jurors it shall be lawful for the Pursuer or Pursuers jointly, where there are more than One, to have Four Challenges allowed without assigning any Cause, and the Defender or Defenders shall be allowed Four such Challenges; provided also, that where there are more than Four Defenders, One Challenge without Cause assigned shall be allowed for each Defender, the Challenges for Cause assigned, if any, being first made respectively.

104. Every

Penalty for Default in Attendance of Jurors.

104. Every Person whose Name shall be so drawn as aforesaid, or who shall be summoned as a Special Juror as after mentioned, and who shall not appear after being openly called Three Times, upon Proof that such Person so making default has been lawfully summoned, shall forfeit and pay the Sum of *Five Pounds* Sterling for every Default in not appearing upon Call as aforesaid, unless some reasonable Cause of Absence be proved to the Satisfaction of the presiding Judge.

Jury may be sworn before previous Verdict returned.

105. If the Trial of any Cause shall be brought on before the Jury in any other Cause shall have returned their Verdict, or shall have been discharged, it shall be lawful for the Judge to direct a Jury to be balloted for in manner before provided, and to exclude from such Ballot the Names of the Jurors serving upon the Trial of such other Cause.

Application may be made for a Trial by a Special Jury.

106. It shall be lawful for either of the Parties in any Cause falling to be tried by Jury before the Lord Ordinary, or at the Inner House Sittings or on Circuit, to apply by Motion to the Lord Ordinary or the Court respectively, for an Order directing that the Cause shall be tried by a Jury chosen from the List of Persons liable to serve as Special Jurors, made up in Terms of the aforesaid Acts of the Sixth Year of the Reign of King George the Fourth, Chapter Twenty-two, and the Seventh Year of the Reign of King George the Fourth, Chapter Eight.

Mode of striking a Special Jury.

107. The Number of qualified Persons to be returned as Special Jurors to try any Cause shall be Thirty-six. The Names and Designations of such Jurors shall be annexed to a certified Copy of the Interlocutor, directing the Cause to be tried by a Special Jury, by the Clerk of the Court, who shall also upon Receipt of the foresaid Return give due Notice to the Agents of the Parties to attend him at a Time and Place to be specified in such Notice; and such Agents shall, in Presence of the said Clerk, alternately, beginning with the Pursuer, strike off One from the List until the Number is reduced to Twenty, which Twenty only shall be summoned to attend the Court on the Day of Trial; and if either of the Parties shall fail to attend personally, or by Agent or Counsel, after such Intimation, then the other Party attending shall proceed to strike off One from the said List, and the Clerk of the Court shall strike off One alternately, so that Twenty Names be left on the List to be summoned to attend the Trial; and the Jury for trying the Cause shall consist of such Twelve of the said Twenty as shall first appear on their Names being called over in Court to try the Issue.

 108. The

Payment of Jurors.

108. The Amount of the Sum to be paid to each Juror for serving on a Jury shall be regulated by Order of the Judge presiding at the Trial, provided that the Judge shall not order more to be paid to any Juryman than Twenty Shillings for each Day during which such Trial shall proceed; and such Sum shall be paid by the Agent of the Party against whom a Verdict shall be found; and in case the Jury shall return a Special Verdict, or shall be discharged without returning a Verdict, the Sum allowed to each Juror shall be paid by the Agents for the Pursuer and Defender in equal Portions; and the Party in whose Favour the Court shall ultimately decide upon such Special Verdict shall be allowed the Sum so paid by him to the said Jurors in the Expenses to be awarded by the Court.

View how to be taken.

109. When it shall appear that it will be proper and necessary that the Jurors who are to try the Cause should have the View of the Houses, Lands, or Places in question, in order to their better understanding the Evidence that will be given upon the Trial of the Cause, in every such Case it shall be lawful for the Division of the Court or the Lord Ordinary, in the Interlocutor by which such Trial is directed, to order that a View should be allowed; and where such View is allowed as aforesaid, Six of the Persons named in the List of Jurors so summoned as Special Jurors or more, who shall be mutually chosen by the Parties or their Agents on both Sides (or if the Parties cannot agree, Six or more of the first Twelve on the List of Jurors), shall have the View, and they, or such of them as shall appear upon the Jury to try the Issue, shall be first sworn before any Ballot as herein-before provided; and so many only shall be balloted for to be added to the Viewers who appear as shall, after excluding all Defaulters and Challenges allowed, make up the Number of Twelve to be sworn for the Trial of the Cause: And it shall be lawful for the Division or the Lord Ordinary, and they are hereby required, in every such Case, by an Authority or Precept signed by the Clerk of the Process, to order and direct the Sheriff or Officer who shall summon the Jury for such Trial to have the said Jurors who shall be so selected or named to be Viewers as aforesaid at the Place in question some convenient Time before the said Trial, to the Effect that they should then and there have the Matters in question shown to them by Two Persons appointed by the Division or the Lord Ordinary; and the said Sheriff or Officer shall certify upon such Authority or Precept that the View has been had according to the Directions therein contained, and shall forthwith return the same to the Clerk: Provided always, that the Expense of such View shall be equally borne by the Pursuer or Pursuers and the Defender or Defenders, and that no Evidence shall be given at such View; provided also, that in case no View

View shall be had, or if a View shall be had by any of the Jurors contained in the List, whether they shall happen to be any of the Jurors who shall be selected or nominated as aforesaid, yet the Trial shall proceed, and no Objection shall be allowed on account thereof or for Want of a proper Certificate as aforesaid.

Viewers in certain Northern Counties how to be chosen.

110. When an Order for a View has been obtained, and the Place to be viewed lies in the Counties of Sutherland, Caithness, and Orkney and Shetland (which Counties are not required to send Jurors to Inverness), the Sheriff Depute or Substitute of the said Counties respectively shall return Three Persons of the County in which the Action arises to be the Viewers; and the said Viewers shall be bound to attend at the Trial, and be first called to serve on the Jury; and if from any Cause it shall be expedient that Viewers should be sent from a neighbouring County, the Division or the Lord Ordinary shall issue an Order for a certain Number of Jurors of the nearest County from which it may be expedient that Viewers should be taken, and they shall be bound to attend the View, and shall be first called to serve on the Jury, as at present practised.

Oath to be administered to the Jury.

111. After a Jury has been chosen, as herein-before provided, and before the Trial is proceeded in, the Clerk of Court officiating at the Trial shall administer to the Jury the following Oath; viz^{t}.

'YOU swear by God, and as you shall answer to God at the great 'Day of Judgment, that you shall well and truly try this 'Cause, and a true Verdict give according to the Evidence.'

This and all other Oaths administered at any Jury Trial shall be administered in the Manner and according to the Form hitherto in use in the Superior Courts in Scotland.

Pursuer to have the Lead, unless otherwise ordered.

112. Unless the Division or the Lord Ordinary shall otherwise determine at or before the Time of fixing the Trial, the Pursuer of the Action shall be held to be Pursuer in the Issues of Fact raised on Record, and shall take the Lead at the Trial.

Procedure at the Trial.

113. Each Party before leading his Evidence shall be allowed One opening Speech, in the course of which he may explain to the Jury the Nature and Import of the Issues of Fact raised on Record: After the Defender's Case is closed, the Court may allow Evidence in Replication; and after the whole Evidence in the Cause is closed, One Counsel for the Pursuer and One Counsel for the Defender (or where separate Defences have been lodged, One Counsel for each Party who shall have lodged separate Defences), may be heard in their Order before the Jury are charged by the presiding Judge.

Jury to answer such Questions as the Judge may put.

114. The Jury shall be bound to answer separately such Questions of Fact, whether averred by the Issue or not, as the presiding Judge shall require them to answer separately; and the Judge's Notes shall be Evidence that such Questions were put, and of the Answers returned by the Jury thereto; and the Court may proceed thereon in pronouncing Judgment in any subsequent Application or Proceeding in the Cause. After the Jury have returned Answers to any such Questions of Fact, it shall be lawful for the presiding Judge to direct the Jury in point of Law that they are bound, in conformity with such Answers, to return a Verdict for the Pursuer or Defender, as the Case may be.

Jury to assess Damages.

115. In all Actions for pecuniary Damages, the Jury if they shall find for the Pursuer, shall also assess the Damages.

Pursuer of Action of Damages in Court of Session recovering less than Five Pounds not to be entitled to Costs if Judge shall certify to that Effect.

116. When the Pursuer in any Action of Damages in the Court of Session for an alleged Wrong recovers by the Verdict of a Jury less than Five Pounds, he shall not be entitled to recover or obtain from the Defender any Costs whatever in respect of such Verdict in case the Judge before whom such Verdict is obtained shall immediately afterwards certify on the Interlocutor Sheet that the Action was not really brought to try a Right besides the mere Right to recover Damages, and that the Injury in respect of which the Action was brought was not wilful and malicious, and that the Action was not fit to be brought.

Verdict, how to be taken.

117. The Chancellor or Foreman of the Jury shall be the Juror chosen by the Majority after they shall be sworn, and in case of an Equality of Votes the Juror first sworn shall have a double Vote; and when the Verdict is returned it shall be declared by the Chancellor or Foreman verbally in open Court, and shall be taken down in Writing before the Jury is discharged by the Clerk officiating at the Trial, who shall afterwards endorse and certify the same on the Interlocutor Sheet of the Process.

Verdict to be given when the Jury are agreed.

118. Subject to the Exceptions herein-after declared, all Verdicts shall be given by the whole Number of the Jury agreeing in the Verdict.

After Three Hours Deliberation Verdict may be returned if Nine are agreed.

119. If, after having been kept in Deliberation for a Period of Three Hours, Nine or more of the Jury shall agree upon a Verdict, the Verdict agreed to by such Nine or more may be returned as the Verdict of the Jury, and shall be taken and shall have the same Force and Effect as if found unanimously by the whole of the said Jury.

120. If,

120. If, after having been kept in Deliberation for a Period of Six Hours, Nine of the Jury shall not have agreed on a Verdict, it shall be lawful for the Judge presiding at the Trial, if he shall see fit, to discharge such Jury without their having given in a Verdict; and in that Case the Clerk shall endorse a Minute certifying the Fact upon the Interlocutor Sheet; and the Division or the Lord Ordinary by whose Authority the Cause shall have been appointed to be tried may thereafter, upon the Motion of either Party, direct another Jury to be summoned for the Trial thereof, or take such other Procedure as would have been competent if no such Trial had been previously directed; and if from any Cause the Jury shall not be discharged at the Expiration of the Period of Six Hours after they shall have retired for Deliberation, the Judge may at any subsequent Period receive a Verdict to which Nine or more of the Jury shall have agreed, or may discharge the Jury without their having returned a Verdict; and while the Jury are kept in Deliberation they may be furnished with necessary Refreshment, by Permission of the Judge.

After Six Hours Deliberation Jury may be discharged.

Provision in case Jury not discharged on the Elapse of Six Hours.

121. In case the Judge presiding at the Trial shall think fit to discharge any Juror on the Ground of Illness incapacitating such Juror from further Attendance, the Trial shall proceed, and a Verdict may be returned either by the whole of the remaining Jurors concurring therein, as soon as they are agreed, or by Nine of such remaining Jurors concurring therein after having been kept in Deliberation for a Period of Three Hours.

Provision in case of Illness of Juror.

122. It shall be lawful for the Jury to return a Special Verdict in the Form in which such Verdicts have been in use to be returned; provided that the Judge presiding at the Trial before receiving such Verdict may require the Jury to amend the same, by finding specially upon any Matter which he may consider material to the Cause; and it shall be lawful for the Judge, before receiving any Verdict, to require the Jury to reconsider the same, if he shall have Reason to believe that they have misapprehended or overlooked any Direction in point of Law which he may have given to them previous to their Retirement.

Special Verdicts how to be framed.

123. In case either Party shall desire to submit the Verdict or Proceedings at the Trial to the Consideration of the Court, as herein-after provided, the Judge who presided at the Trial shall furnish the Parties or either of them with a Report in Writing of the Evidence adduced and given on the Trial, as taken down by him at the Time, and of his Directions if any in point of Law, and of any Questions specially put by him to the Jury, with the Answers thereto as noted at the Time, together with his Note of any Reservation

Judge to furnish the Parties with a Report of the Evidence.

vation of Leave to move the Court upon any Point of Law; and such Report of the Proceedings on the Trial shall be conclusive of what passed at such Trial: Provided always, that the Judge may, with Consent of the Parties, allow any Shorthand Writer's Report to be substituted in place of his own Notes of the Evidence, and may add to such Report his own Notes of such other Matters as are herein directed to be furnished to the Parties, or may refer to such Shorthand Report for the Purpose of revising or supplementing his own Notes of the Evidence.

Judge may, of Consent, reserve any Question of Law, with Leave to enter a Verdict.

124. The Judge at the Trial may, with the Consent of the Parties, direct the Jury upon any Matter of Law, whether arising on the Evidence or on the Record, subject to the Opinion of the Court upon such Direction, and with Liberty to either Party to move the Court to enter the Verdict for him, although returned against him, if the Court should be of opinion that such Direction was erroneous, and that such Party was truly entitled to a Verdict; and the Judge and the Court shall afford every Facility to any Party to obtain the Opinion of the Court upon any Direction so given, without the Necessity of printing the Notes of Evidence or the documentary Evidence adduced at the Trial, or more than may be necessary to enable the Court to judge of the Direction; and for this Purpose a Statement of the Direction, and of the Circumstances in which it was given, including, if that shall be thought proper, a Statement of the Purport of the Evidence, so far as bearing on the Direction or necessary to enable the Court to judge of it, agreed upon by the Parties or certified by the Judge at the Trial, shall be received and acted upon by the Court; and such Statement and Agreement or Certificate may, in the Option of the Parties or according to the Discretion of the Judge at the Trial, be either verbal or in Writing.

Procedure upon Motions pursuant to Leave reserved.

125. The Opinion of the Court upon any Direction given as aforesaid may be obtained upon Motion to enter the Verdict for the Party moving; and if the Court shall be of opinion that the Direction was erroneous, and that the Party moving is truly entitled to the Verdict, in whole or in part, they shall direct the Verdict to be entered for him, in whole or in part, either absolutely or on such Terms as they shall see fit, accordingly; otherwise they shall refuse the Motion; or they may, if they shall see just, set aside the Verdict, and direct a new Trial.

Application for new Trial when grounded on Matter of Discretion.

126. It shall be competent for either of the Parties, if dissatisfied with the Verdict of the Jury, to apply to the Division of the Court to which the Cause is appropriated, for a new Trial, on the Ground of the Verdict being contrary to Evidence, on the Ground of Excess

of

of Damages, or of res noviter veniens ad notitiam, or for such other Cause as is essential to the Justice of the Case; and the Interlocutor granting or refusing a new Trial on any of the Grounds herein-before mentioned shall be final.

Application for new Trial upon Ground of Error in Law.

127. It shall be competent also for the Party who is dissatisfied with the Verdict to apply to the said Division for a new Trial, on the Ground of Error in the Direction of the Judge presiding at the Trial, either in relation to the Competency of Witnesses, the Admissibility of Evidence, or other Matter of Law arising at the Trial; provided that where it is intended to apply for a new Trial on any of these last-mentioned Grounds Exception shall be taken at the Time to the Direction of the Judge, and such Exceptions may also be made the Ground of an Application to set aside the Verdict by Bill of Exceptions: Provided always, that it shall not be lawful to set aside a Verdict or grant a new Trial upon such Motion or Application unless the Exception shall be allowed.

How such Applications are to be made.

128. Every Application for a new Trial shall be made by way of Motion for a Rule or Order to the opposite Party to show Cause why a new Trial should not be granted, of which Notice shall be given to the opposite Party within Eight Days after the Verdict is returned, or, if that Period shall expire in Vacation or Recess, then within Eight Days after the next Meeting of the Court; and if the Court shall think fit to grant such Order or Rule, the Grounds upon which the Rule is granted shall be specified in the Interlocutor granting the same, and the Procedure shall in other respects be in accordance with the existing Usage: Provided always, that, except where the Application for a new Trial is made on the Ground of the Verdict being contrary to Evidence, it shall not be necessary to lay the whole Evidence before the Division of the Court in which the Application is made, unless the Party moving shall choose, or the Judge at the Trial shall so direct.

Exceptions to Judges Direction in Law how to be noted.

129. When an Exception is taken in the Course of a Trial on any of the Grounds herein-before specified, a Note thereof shall be taken by the Judge, or, if he shall so direct or the Party excepting shall think proper, a Note thereof shall be written out and signed by such Party or his Counsel, and initialed by the Judge at the Time; and such Exception, whether noted by the Judge or by the Party, may be made the Ground of an Application to set aside the Verdict, either by Motion for a new Trial or by Bill of Exceptions; and the Judge shall give such Facilities for obtaining the Opinion of the Court on the Matter of the Exception as are herein-before required with respect to Applications for Leave to enter a Verdict.

 130. The

Bill of Exceptions, Form of.

130. The Bill of Exceptions (which may be subsequently prepared, and of which the same Notice shall be given as in the Case of a Motion for a new Trial,) shall consist of a distinct Statement of the Exception or Exceptions so noted, including such Statement of the Circumstances in which such Exception or Exceptions were taken, and, if necessary, a Statement of the Purport of the Evidence, so far as bearing upon such Exception or Exceptions, as, along with the Record in the Cause, may enable the Court to judge of such Exception or Exceptions; and unless the Party excepting shall choose, or the Judge at the Trial shall so direct, it shall be unnecessary to print or submit to the Court the Notes of Evidence or the documentary Evidence adduced at the Trial; and when such Notes and Documents are submitted to the Court they shall form no Part of the Bill of Exceptions; and in discussing a Bill of Exceptions, it shall be competent for either Party to refer to the Record and to every Document produced and put in Evidence at the Trial, and the Notes of Evidence at the Trial may be produced and proceeded on at any Time.

Restriction upon Right to new Trial where founded on undue Admission or Rejection of Evidence.

131. A new Trial shall not be allowed upon the Ground of undue Admission of Evidence, if in the Opinion of the Court the Exclusion of such Evidence could not have led to a different Verdict than that actually pronounced, and it shall not be imperative on the Court to grant an Application for a new Trial on the Ground of the undue Rejection of documentary Evidence, when it shall appear from the Documents themselves that they ought not to have affected the Result at which the Jury by their Verdict had arrived.

Court may give Directions for a new Trial after setting aside Verdict.

132. In all Cases where a new Trial shall be granted upon a Motion to that Effect, and in all Cases where a Verdict is set aside upon Grounds stated in a Bill of Exceptions, the Court shall order another Jury to be summoned for the Trial of the same Issues, and the like Proceedings may be had upon such Order as upon any Order of the Inner House directing a Trial in the first instance.

Application of the Verdict.

133. Motions for the Application of any Special Verdict, whether returned at a Trial in the Inner House, or on Circuit, or before the Lord Ordinary, shall be made in the Division in which the Cause depends. Motions for the Application of General Verdicts returned at a Trial before the Lord Ordinary (in the event of no Application being made for a new Trial) may be made either before such Lord Ordinary or before the Division; and where any Cause shall have been brought before the Inner House after Trial by Jury, it shall not again be remitted to the Lord Ordinary, but shall remain in the Division until the whole Cause is disposed of.

134. It

Questions of Law may be raised at the Trial in the Form of a Special Case for the Opinion of the Court.

134. It shall be lawful for the presiding Judge, with the Consent of the Parties, at any Time in the course of the Trial to adjust a Special Case, in which the Fact or Facts appearing at the Trial, and material to the Determination of the Cause, shall be set forth in the same Manner as in a Special Verdict; and such Case shall be signed by Counsel, and authenticated by the Judge; and thereupon the Jury shall be discharged without returning a Verdict; and thereafter the Record, together with such Special Case, and any documentary Evidence therein referred to, may be boxed to the Court by either Party; and the Procedure thereupon shall be as nearly as possible the same as in the Case of a Special Verdict; and the Court or the House of Lords shall be at liberty to draw all Inferences of Fact as well as Law from the Facts stated in such Special Case, or appearing upon the documentary Evidence therein referred to: Provided also, that the like Proceeding may be had at any Proof before the Lord Ordinary.

PART V.

Proof, Diligence, Execution and incidental Procedure.

And with respect to Probation, and the Recovery of documentary Evidence, and the Execution of Service and Diligence, be it enacted as follows:

In Cases not suited for Jury Trial, Proof to be taken before the Lords Ordinaries or Examiners appointed under this Act.

135. Where in any Action or Proceeding under this Act (other than such Actions as are herein-before appropriated to Jury Trial) the Questions of Fact raised upon the Record shall not be considered by the Lord Ordinary or the Court to be suitable for Determination by Jury Trial, the Interlocutor allowing a Proof shall appoint such Proof to be taken, if either of the Parties so desire, before the Lord Ordinary, or otherwise before One of the Examiners to be appointed in virtue of this Act; provided that where it is necessary to examine any Witness residing out of the Jurisdiction Commission may be granted by the Court for that Purpose to any qualified Person.

Citation of Witnesses and Havers for Trial.

136. A certified Copy of the Interlocutor appointing a Proof to be taken before the Lord Ordinary or Examiner shall be a sufficient Warrant for the Citation of Witnesses and Havers to all Diets of Proof.

Recovery of Documents by Diligence before Trial.

137. Either Party may, if necessary, at any Time after the Diet of Trial or Proof has been fixed, move for a Commission and Diligence to recover Documents in Terms of a Specification to be lodged in Process as relative to such Diligence; and the Commission, if it is to be executed in Edinburgh, shall be directed to the Examiners of

Court; and a Copy of the Interlocutor granting Diligence in Terms of any such Specification or amended Specification shall be a sufficient Warrant for the Citation of Havers to all Diets of Proof; provided also, that such Commission and Diligence may be granted at any prior Stage of the Cause, if it shall appear that such Documents are in danger of being lost or put away, or upon any other Ground essential to the Justice of the Case.

Trials of Fact before the Lord Ordinary.

138. Where a Proof shall be appointed to be taken before the Lord Ordinary, a Diet of Proof shall be appointed, and, subject to any Regulation which the Court may establish regarding opening, the Mode of Proceeding shall be similar and the Evidence shall be adduced in the same Order as at a Jury Trial; and the Lord Ordinary shall either with his own Hand note the Evidence, in which Case it shall be read over to the Witness in open Court, and shall be signed, at the End of the last Page, by the Witness, if he can write, and by the Lord Ordinary, if he cannot, or the Lord Ordinary shall cause it to be taken down and recorded in Shorthand by a Writer skilled in Shorthand Writing, to whom the Oath de fideli administratione officii shall be administered, and the Lord Ordinary may direct the Shorthand Writer to omit any such Statements of the Witness as are immaterial, and may dictate to the Shorthand Writer the Words which he is to take down where these are important, and shall either note himself, or dictate to the Shorthand Writer, a Note of the Documents adduced, and of any Evidence, whether oral or written, tendered and rejected, or admitted after having been objected to, and of the Ground of such Rejection or Admission of Evidence; and the said Shorthand Writer shall afterwards write out in full the Evidence so taken by him; and the Notes of the Judge, or the extended Notes of the Shorthand Writer, certified by the Lord Ordinary to be correct, shall be the Record of the oral Evidence in the Cause; and the Diet of Proof may be adjourned by the Lord Ordinary, if he shall consider it proper and reasonable so to do; but the Proof shall be taken as far as may be continuously, and with as little Interval as the Circumstances and the Justice of the Case will admit of.

Judgment upon such Trials, and Review of the Lord Ordinary's Judgment.

139. As soon as the Proof on both Sides has been closed (or after the Lord Ordinary has certified the Shorthand Writer's Notes of the Evidence, where the Evidence has been taken in Shorthand), Counsel for the Parties shall be heard on the Evidence; and the Lord Ordinary shall thereafter pronounce an Interlocutor disposing separately of the several Questions of Fact raised upon Record (or such of them as may have been submitted for his Consideration at the Trial), and his Interlocutor shall be subject to Review upon the Notes of the Evidence;

Evidence; and in reviewing any such Interlocutor it shall be lawful for the Court or the House of Lords to alter any Ruling of the Lord Ordinary with respect to the Admissibility of Evidence appearing upon the said Notes.

Reserved Questions of Law may be disposed of at the Hearing upon such Trial.

140. Unless it shall appear that it would be impracticable or inconvenient to dispose of the whole Cause at the Time of disposing of the Questions of Fact on which Evidence has been adduced before the Lord Ordinary, the Lord Ordinary shall at the Hearing upon the Evidence also hear Counsel upon the whole Merits of the Cause, including such Questions of Law as may be raised upon Record; and in that Case (or in case no Proof shall be required) the Lord Ordinary shall, after hearing Parties upon the whole Merits of the Cause, pronounce an Interlocutor disposing separately of such Questions of Law and Fact arising upon the Record and Evidence as may be necessary for the Determination of the Merits of the Cause, and shall give Judgment in accordance therewith; and his Interlocutor shall be subject to Review.

Examiners to be appointed to take Evidence, and conduct Inquiries upon Remit.

141. It shall be lawful for Her Majesty, Her Heirs and Successors, to appoint Two Persons, being Advocates of not less than Three Years standing, to be called Examiners of the Court of Session, to aid in taking Proofs and ex parte Inquiries, and to discharge such other Duties as have usually been performed by Commissioners appointed by the Court; and each Examiner shall be paid out of the Fee Fund of the Court of Session a Salary of Pounds, and shall not receive Fees for the Discharge of any Duty imposed upon him by this Act, or for executing any Commission or Remit whatever; and the Proofs before such Examiners shall be taken as far as possible continuously, and according to the Order and Method herein-before prescribed with respect to Trials before the Lord Ordinary, except that the Examiner shall not have Power to decide any such Cause or Question, but shall report the Evidence to the Lord Ordinary, or, if the Parties consent, to the Division of the Court before which the Cause depends: Provided always, that the Examiner shall be at liberty in reporting the Evidence to state his Opinion upon any particular Matter of Evidence arising at the Proof.

Matters of Account may be remitted to professional Accountant for Inquiry.

142. Where in any Action, whether instituted by Summons, Bill, or otherwise, it shall appear to the Lord Ordinary or the Court that the Matters of Fact in dispute consist wholly or in part of Matters of Accounting which cannot conveniently be investigated by Jury Trial, or by a Proof in the Manner herein-before provided, it shall be lawful for the Lord Ordinary or the Court,

upon the Motion of either Party, to remit to an Accountant or other qualified Person to prepare a State of Accounts in relation to the Matters in dispute, with Power to examine Witnesses and Havers, and to recover documentary Evidence, and, if necessary, to hear the Parties, and to report his Opinion upon the Matters of Accounting; and the Parties shall be entitled to be heard before the Lord Ordinary or the Court upon the said Report; provided that before the Hearing on any such Report or State of Accounts the Parties shall, if required by the Court or by the opposite Party, put into Process a Note of the Objections intended to be maintained to such Report.

Cases depending on documentary Evidence, &c. to be remitted to Examiner for Inquiry.

143. Where it shall appear to the Lord Ordinary or the Court that the Matters in dispute (whether relating to Accounts or otherwise) depend wholly or principally upon documentary Evidence, or that such Matters cannot conveniently be determined without a preliminary Investigation under the Authority of the Court, it shall be lawful for the Lord Ordinary or the Court to remit the Cause to the Examiners of Court, either generally or with Instructions, and with Power to take Evidence; and the Result of the Investigation made in pursuance of any such Remit shall be stated either in a Report or in the Form of a short Certificate of the Examiner's Opinion, bearing Reference as far as necessary to any State of Accounts or documentary Evidence upon which it proceeds: Provided always that where Witnesses have been examined under any such Remit the Evidence shall also be reported.

Adjustment of Examiner's Report and Documents intended to be submitted to the Court.

144. Every such Report or Certificate shall be shown to the Parties before being signed; and the Examiner shall afterward call the Parties before him, and in the event of either Party intimating his Dissatisfaction with the Report or Certificate he shall adjust with the Parties an Inventory of such Evidence, Productions, or other Papers in Process as may be necessary to be printed for the Information of the Court, in order to the Determination of the Matters reported on; and no other Matters shall be printed or referred to in the Debate upon such Report or Certificate, unless with Leave of the Court, upon Cause shown: Provided always, that before the Hearing upon any such Report or Certificate the Parties shall, if required by the Court or by the opposite Party, put into Process a Note of the Objections intended to be maintained to such Report or Certificate.

Incidental Matters may be proved viva voce, or by Affidavit.

145. The Court or the Lord Ordinary may, without any formal Order for that Purpose, receive Evidence vivâ voce for or against any Motion or for or against any Application for interim Interdict or other Matter requiring Despatch, and may receive Affidavits in support of or in opposition to any such Motion or Application.

146. Nothing

Law of Evidence not affected.

146. Nothing in this Act contained shall render it competent to adduce parole Evidence upon any Matter of Fact which according to the existing Law can only be proved scripto vel juramento.

Fees to be paid upon Examiners Reports and Certificates.

147. There shall be paid into the Fee Fund of the Court of Session, upon every Report by an Examiner of Court, the following Sums, viz., upon each Report of a Commission and Diligence for the Recovery of Documents and Examination of Havers, the Sum of One Pound, and upon every other Report or Certificate the Sum of Two Pounds; and such Payments shall be defrayed by the Pursuer and Defender in equal Moieties, and in the Case of Actions of Competition by the several Parties interested in equal Shares, one Share being payable in respect of each Claim; and the Agent lodging any Report or Certificate, and paying the Dues thereof, shall be entitled to recover any Share payable by other Parties.

Examinations of Witnesses going abroad, &c., upon Commission.

148. When it shall be made to appear to the Satisfaction of the Lord Ordinary or the Court that a Witness resides beyond the Reach of the Process of the Court, and is not likely to come within its Authority prior to the Day of Trial or Proof, or that such Witness cannot attend on account of Age or permanent Infirmity, or is labouring under severe Illness which renders it doubtful whether his Evidence may not be lost, or is a Seafaring Man, or is obliged to go into Foreign Parts, or shall be abroad, and not likely to return before the Day of Trial, it shall be lawful for the Lord Ordinary or the Court to grant Commission and Diligence for the Examination of any such Witness either upon the Matter of the Action generally or upon any particular Matters upon which a Trial or Proof may previously have been allowed; and in Cases of Emergency, Application for Commission to examine any such Witness may be made before the Action has been enrolled, upon Production of the executed Summons or other Initial Writ, and shall in that Case be made to the Lord Ordinary in the Cause, or, in Time of Vacation or Recess, to the Lord Ordinary on the Bills; and where any such Commission shall be applied for in Vacation or Recess, in any Action in which a Trial or Proof has been allowed, such Application may be made either to the Lord Ordinary on the Bills or to the Judge before whom the Trial is to take place; and all such Commissions may be directed to the Examiners of Court.

Depositions may be used at Trial on certain Conditions.

149. If it is established at the Trial of the Cause to the Satisfaction of the presiding Judge, by Oath or Affidavit, that such Witness is dead, or cannot attend owing to Absence from the Country, Age, or permanent Infirmity, it shall be competent to use at such Trial the Evidence so taken, subject to all legal Objections to its Admissibility;

bility; provided also, that the Lord Ordinary may in his Discretion allow any Evidence taken on Commission as aforesaid to be put in by either Party at a Trial before himself without a Jury; and that Evidence so taken may be put in, as of Course, by either Party at a Proof before One of the Examiners of Court.

Provision as to Cross-examination.

150. In all Cases where a Commission is granted upon the Application of One Party for examining any such Witness as aforesaid it shall be competent to the other Party to have a joint Commission, and it shall be competent to the Examiner or Commissioner to put such additional Questions to the Witnesses as may appear to him to be necessary, distinguishing the Questions so put.

Depositions may be used by opposite Party.

151. When One Party obtains a Commission to examine Witnesses as aforesaid, and does not use the Evidence obtained under the Commission, the other Party may use the Evidence given under it at the Trial, provided he satisfies the presiding Judge that he could not bring the Witness or Witnesses whose Evidence he proposes to read; but the Depositions taken on Commission shall not be used if the Witnesses so examined shall be brought forward at the Trial.

Order for Inspection of Real or Personal Property.

152. Either Party in any Action or Proceeding in the Court of Session shall be at liberty to apply to the Court or Lord Ordinary for an Order for the Inspection by the Jury or Judge, Examiner or Commissioner, or by himself or by his Witnesses, of any Real or Personal Property, the Inspection of which may be material to the proper Determination of the Question in dispute; and it shall be lawful for the Court or the Lord Ordinary, if they or he think fit, to make such Order upon such Terms, as to Costs or otherwise, as they or he may think fit to direct: Provided always, that nothing herein contained shall affect the Right of the Parties in Jury Cases to apply for a View by Jurors, as herein-before provided; and that any Inspection by a Jury under any such Order as is hereby authorized shall be conducted as nearly as possible in the Manner herein-before provided with respect to a View by Jurors.

Certified Copy of Interlocutor equivalent to Extract in certain Cases.

153. It shall not be necessary to obtain a formal Extract of any Interlocutor granting a Commission or Diligence, or an Order for a View, or for the Inspection of Property, or for the Transmission of any original Document from the Register, or for the Transmission of any Inferior Court Process in any Action or Proceeding before the Court of Session, but a Copy of any such Interlocutor, certified by the Clerk of the Process or his Assistant, shall have the same Force, Operation, and Effect as a formal Extract thereof.

154. Either

Admission of Documents may be required from the opposite Party.

154. Either Party in any Action or Proceeding in the Court of Session may call on the other Party to admit any Document, saving all just Exceptions, and such Admission shall be signed by the Party, his Agent or Counsel; and in case of Refusal or Neglect to admit, the Expense of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless the Judge before whom or on whose Remit Proof of such Document was adduced shall certify that the Refusal to admit was reasonable; and no Costs of proving any Document shall be allowed, unless such Notice be given, except in Cases where the Omission to give the Notice is, in the Opinion of the Auditor, a Saving of Expense.

Production of Documents on Demand of the opposite Party.

155. Either Party may call on the other Party by Notice to produce any Document in his Possession or under his Control, saving all just Exceptions; and if the Party shall refuse or neglect to produce the same, and the Document shall afterwards be recovered from him under a Diligence, the Expense of Recovery shall be paid by the Party so neglecting or refusing, unless the Lord Ordinary (or the President of the Division, or Judge presiding at the Trial of the Cause, where such Diligence is granted by the Division,) shall certify that the Refusal to produce was reasonable.

Deficient Stamp Duty on any Document may be paid into Court at the Trial.

156. No Document tendered in Evidence at any Trial or Proceeding in the Court of Session (and which at the Time when the same is tendered may lawfully be stamped on Payment of a Penalty) shall be rejected by reason of the Omission to affix a Stamp thereto, or by reason of the Insufficiency of the Stamp, provided the Party tendering the same shall, before the Conclusion of such Trial or Proceeding, pay into Court such Sum as the Judge shall certify to be the Amount of Stamp Duty or of additional Stamp Duty chargeable thereon, with the Penalty required by Statute, and an additional Penalty of One Pound.

Clerk to remit the Duty to Commissioners of Inland Revenue.

157. Every Sum so paid for Stamp Duty and Penalty, including such additional Penalty, together with such Document and the Certificate of the Judge written thereon, shall forthwith be transmitted by the Clerk of the Process to the Commissioners of Inland Revenue, who shall cause the said Document to be impressed with a denoting Stamp, corresponding to the Amount of Duty mentioned in the Certificate and received by them, and shall return the Document with all convenient Speed to the said Clerk.

Provision as to new Trials.

158. No new Trial shall be granted by reason of the Ruling of any Judge that the Stamp upon any Document is sufficient, or that the Document does not require a Stamp.

 159. Where

Execution of Summonses and Signet Letters and Intimation of Process may be made by a Sheriff's Officer, if there be no Messenger-at-Arms resident and practising in the County.

159. Where any Summons under this Act, or any Letters passing Her Majesty's Signet, or Citation, Charge, Publication, or Service thereof, or any Charge upon a registered Decree or Protest, or any Note of Suspension, Suspension and Liberation, or Suspension and Interdict, or Petition, or other Judicial Process is or are to be executed or intimated within any County in Scotland in which there shall be no Messenger-at-Arms registered as resident and practising under the Provision herein-after contained, such Execution or Intimation shall and may be made by any Sheriff's Officer of the Sheriff Court of such County, and shall be as valid and effectual as if the same had been made by a Messenger-at-Arms.

Register of Residences of Messengers-at-Arms to be kept in the Signet Office.

160. The Deputy Keeper of Her Majesty's Signet shall cause to be kept in the Signet Office a Register of all practising Messengers-at-Arms for the Time being, arranged according to the Counties in which they are resident, in which the Address of every such Messenger-at-Arms shall be specified, together with the Date of the Entry thereof; and the said Deputy Keeper shall cause the Register to be amended from Time to Time by the Addition of new Names, specifying the Address and Date of Entry as aforesaid, and by the Deletion of the Names of such as have died, or as shall have removed from the County in which they are registered as resident and practising, the Date of such Deletion being specified in the Margin; and a Copy of such Register, or so much thereof as is necessary to show the Names and Addresses of Messengers-at-Arms resident and practising in each County respectively, shall be constantly exhibited on the Walls of the Signet Office.

Induciæ of Signet Letters and Charges regulated.

161. All Letters passing Her Majesty's Signet, bearing a Citation, Charge, Publication, or Service, except Summonses, shall proceed on Fourteen Days Warning where the Defender is within Scotland, unless in Orkney or Shetland, or furth of Scotland, and such Induciæ shall also be competent and sufficient in respect to all Edictal Charges upon Decrees and registered Protests: Provided always, that where any shorter Induciæ than the Induciæ above mentioned are at present sufficient, such shorter Induciæ shall continue to be sufficient after the passing of this Act.

Execution of Summonses and other Writs.

162. All Executions of Summonses, and all Executions of Intimation of Notes of Suspension, and Petitions, shall be written at the End of the Summons, or at the End of the usual certified Copy of such Bill or Note of Suspension, or Petition, and, where necessary, on continuous Sheets, but not on a separate Paper; and every such Execution shall be in the Form or as nearly as may be in the Form of Schedule (E.) hereunto annexed.

163. All

Edictal Citations regulated.

163. All Edictal Citations, and all Charges, Publications, Citations, and Services which under the ancient Practice fell to be made at the Market Cross of Edinburgh and Pier and Shore of Leith, as well in Processes of Ranking and Sale as in all other Processes and Proceedings whatsoever, whether as against Persons furth of Scotland or otherwise, and also the Edictal Citations of Minors Next of Kin, which formerly fell to be made at the Market Cross of the County Town or Head Burgh of the Shire where the Minor has his Lands and Goods, and also Citations of the Tutors and Curators of Minors which formerly fell to be made at the Market Cross of the County Town or Head Burgh of the Shire of the Minor's Residence, shall be done and performed by Delivery of a Copy thereof at the Office of the Keeper of Edictal Citations at the General Register House at Edinburgh; and where in any Action it is necessary to cite a Plurality of Defenders edictally, it shall be sufficient to deliver One Copy at the said Office, and to include all the Parties in One Citation.

Registration of such Citations.

164. The Keeper of Edictal Citations, or his Clerk, shall forthwith register in a Book to be kept for that Purpose an Abstract of the Copy so delivered, exhibiting the Time of Service, the Nature of the Writ, the Names and Designations of the Parties, and the Day against which the Party shall be called upon to give Obedience or to make Appearance; and the Keeper of Edictal Citations shall keep Four distinct and separate Registers, one for all Citations on Summonses and Orders of Service as against Persons furth of Scotland to appear before the several Supreme Civil Courts respectively, another Record for all Citations by virtue of Letters of Supplement to Persons furth of Scotland to appear before any of the Inferior Courts of Scotland, a Third for all Charges, Intimations, and Publications to Persons furth of Scotland given by virtue of Letters other than Summonses passing the Signet, or Inhibitions, and a Fourth for Publications of Inhibitions and Interdictions, as herein-after provided.

Execution of Inhibitions and Interdictions to be made edictally.

165. In lieu of the Execution of Letters of Inhibition against the Lieges by Publication at the Market Cross of the Head Burgh of the Jurisdiction of the Debtor's Domicile, or at the Market Cross of Edinburgh and Pier and Shore of Leith, Execution shall be made by Service by a Messenger-at-Arms at the Office of the said Keeper of Edictal Citations; and all Bonds of Interdiction shall in like Manner be executed against the Lieges by Service of a Copy thereof at the said Office; and all Inhibitions against Wives shall in like Manner be executed against the Lieges by Service of a Copy thereof at the said Office, in lieu of Publication at the Head Burgh of the Jurisdiction where the Husband resides or is domiciled.

 166. The

Publication of Abstracts of Edictal Citations.

166. The said Abstracts, in so far as they comprehend Citations by virtue of Summonses, Precepts, Warrants of Court, and Letters of Supplement, shall periodically be printed by the Keeper of Edictal Citations, according to the existing Practice, or in such Manner and at such Times as the Court may appoint by any Act or Acts of Sederunt to be made in that Behalf; and at all Times the said Register of Edictal Citations shall be open to Inspection, and also the Copies of Charge, Citation, and Service which shall be lodged as aforesaid with the Keeper or his Clerk; and such Keeper and his Clerk shall be paid out of the Fee Fund of the Court of Session the Salaries which have heretofore been in use to be paid.

PART VI.

Appearance of new Parties.

And with respect to the Appearance of Parties after the Institution of Proceedings, and the Mode of wakening and transferring Actions, be it enacted as follows:

Defective Instance may be obviated by Appearance of Parties by Minute.

167. It shall be lawful for the Lord Ordinary or the Court, on the Motion of the Pursuer, at any Time before the Record is closed in any Action or Proceeding, to allow any Party who might have sued as a Pursuer, or as concurring in the Instance of such Action, to appear as a Pursuer of such Action, or as concurring therein; and such Appearance shall be made by a Minute for the Party so appearing, signed by his Counsel, in respect of which the Lord Ordinary shall sist the Party as Pursuer, or as concurring in the Action accordingly; and any Party so appearing shall thenceforth be liable as a Party to implement any Decree for Expenses which may thereafter be pronounced, whether such Expenses were incurred before or subsequent to his Appearance; and such Appearance shall be held to obviate any Objection to the Instance or to the Title of the Pursuer for Want of the Instance or Concurrence of the Party so compearing.

Leave may be granted to appear after Record closed in certain Cases.

168. It shall be lawful for the Lord Ordinary or the Court, on the Motion of the Pursuer, at any Time in the Progress of a Cause, to allow any Party who might have sued as a Pursuer or as concurring in the Instance of the Action to appear in the same Manner and subject to the same Liability and to the same Effect as is herein-before provided in relation to the Appearance of Parties before the closing of the Record, if it shall appear to the Lord Ordinary or the Court that the Omission of such Party from the Instance of the Action was not for the Purpose of obtaining an undue Advantage, and that Injustice will not be done by permitting such Appearance.

169. It

Summons, &c. may be served by Order of Court upon Parties not called.

169. It shall be lawful for the Lord Ordinary or the Court, at any Time before the Record is closed in any Action or Proceeding, to grant Warrant for serving the Summons or other initial Writ upon any Party or Parties not called as Defenders in such Summons or Writ, and at the same Time to allow such Party or Parties to give in Defences or Answers within a Time to be specified in the Interlocutor; and upon Service of such Summons or Writ, together with a certified Copy of such Interlocutor, by a Messenger-at-Arms, upon any Party named in such Interlocutor, such Party, whether appearing or not, shall thenceforth be taken to be a Defender to all Effects, in like Manner as if he had been called in the Summons or other Writ, except that he shall not be liable for any Expense incurred by the Pursuer prior to his Appearance; and the Service of such Summons or Writ and Interlocutor upon the said Parties shall be held to obviate any Objection to such Summons or Writ on the Ground that such Parties were not called as Defenders.

The like Procedure after Record closed in certain Cases.

170. It shall be lawful for the Lord Ordinary or the Court, at any Time in the Progress of a Cause, to grant Warrant for serving the Summons or other initial Writ upon any Party or Parties not called as Defenders in such Summons or Writ, and at the same Time to allow such Party or Parties to give in Defences or Answers within a Time to be specified in the Interlocutor; and the Service of such Summons or Writ and Interlocutor upon any such Party shall be held to obviate any Objection to such Summons or Writ on the Ground that such Party was not called as a Defender; but Parties so called after the Record has been closed shall not be bound to appear, and no Decree shall be pronounced in Absence against any such Party by reason of his Default in making Appearance when so called, and no Party so appearing shall be liable for any Expenses incurred prior to his Appearance.

Defender may appear with Leave of the Lord Ordinary, upon Cause shown.

171. Any Defender called in the Summons or other initial Writ who shall have failed to appear at the proper Time may be allowed to appear at any subsequent Time in the Progress of the Cause, of Consent of the Parties, or without such Consent on his satisfying the Lord Ordinary and the Court that from Ignorance of the Dependence of the Process or other sufficient Cause he was unable earlier to appear, and that he has an Interest to defend; and any Person having an Interest, although not called in the Summons or other initial Writ, may, of Consent of all Parties, or with the Leave of the Lord Ordinary or of the Court, appear as a Defender; and in either Case such Appearance shall be made by Minute, and the Party or Parties so appearing shall be sisted by

Interlocutor, upon such Terms as to Expenses or otherwise as the Lord Ordinary or the Court may think just in the Circumstances.

Defender appearing after Action commenced may adopt Pleadings of Co-Defender.

172. Any Defender appearing by Minute, or in virtue of a Warrant of Service, may, instead of lodging Defences or Answers, lodge a Minute adopting the Pleadings of any other Defender already a Party to the Cause; and such appearing Party may thereafter defend the Action jointly with such other Party.

Provision as to Expenses.

173. In the event of any Party being allowed to appear either as a Pursuer or Defender for the Purpose of obviating any Objection to the Instance, or any Objection of Want of Parties, the original Pursuer shall not be found liable in any Expenses to the original Defender, unless such Objection shall have been stated in the original Defences or Answers, and insisted in before the Lord Ordinary prior to the closing of the Record.

Actions of Wakening and Transference abolished.

174. The Process of Wakening and also the Process of Transference by Summons shall be and the same are hereby abolished.

Procedure in lieu of Wakening.

175. Where according to the existing Practice a Cause would require to be wakened in order to its being proceeded with, it shall be competent for any of the Parties to enrol such Cause before the Lord Ordinary, and to lodge a Minute craving a Wakening of the Cause; and the Lord Ordinary may thereupon direct Eight Days Intimation of such Minute to be made to the known Agents of the other Parties in the Cause, or to such Parties themselves, and shall also direct Intimation to be made in the Minute Book of the Court of Session; and on the Expiration of Eight Days from the Date of such Intimation, or from the latest Date thereof, and on a Certificate being lodged in Process under the Hand of the Agent of the Party applying for the Wakening, certifying that he has duly intimated the Minute in Terms of the Lord Ordinary's Interlocutor to such other Parties or to their known Agents, either by Delivery thereof, or by Transmission through the Post to the known Address of any such Parties or their Agents, of a Copy of such Minute and Interlocutor, the Lord Ordinary may pronounce an Interlocutor holding the Cause as wakened, and the same may thereafter be proceeded with as wakened accordingly.

Proceedure in lieu of Action of Transference.

176. Where according to the existing Practice a Cause may be transferred against any Party or Parties, it shall be competent to any Party who might have instituted a Summons of Transference to enrol the Cause before the Lord Ordinary, and to lodge a Minute craving a Transference of the Cause against such Party or Parties; and

and the Lord Ordinary may thereupon grant Warrant for serving the Summons or other initial Writ upon the Party or Parties against whom such Cause is sought to be transferred, and at the same Time shall allow such Party or Parties to give in a Minute of Objections to such Transference within a Time to be specified in the Interlocutor, and such Interlocutor shall also be intimated in common Form to the Agents of the other Parties in the Cause, and such and the like Procedure may be had in virtue of the Service of such Summons or other initial Writ on the Lord Ordinary's Warrant as might have been had in virtue of the Execution of a Summons of Transference; and if the Lord Ordinary shall think fit to transfer the Cause in Terms of the said Minute (which the Lord Ordinary is hereby authorized to amend, if necessary), he shall pronounce an Interlocutor holding the Cause as transferred against the Party or Parties named in such Minute or amended Minute, and the Cause shall be taken to be transferred accordingly.

Procedure in lieu of Action of Wakening and Transference.

177. Where according to the existing Practice a Cause would require to be wakened in order to its being proceeded with, and also to be transferred against any Party or Parties, it shall be competent to any Party who might have instituted a Summons of Wakening and Transference to enrol the Cause before the Lord Ordinary, and to lodge a Minute craving a Wakening of the Cause and a Transference thereof against such Party or Parties, and after such Procedure by Intimation and Service as is herein-before directed with respect to Motions for Wakening and Transference respectively the Lord Ordinary may pronounce an Interlocutor holding the Cause as wakened, and may either in the same or in an Interlocutor to be subsequently pronounced, as Justice may require, also transfer the Cause against the Parties named in such Minute.

Transference where Process is in the Inner House.

Parties may appear voluntarily, and be sisted.

178. It shall be lawful, where the Process is in the Inner House, to apply by Minute to the Division of the Court in which the Cause depends for a Transference of the Cause in manner herein-before provided against any Party or Parties named in such Minute; provided that nothing herein contained shall prevent the Lord Ordinary or the Court from sisting any Person, upon his own Application by Minute, as a Party to the Cause, where such Person is according to the existing Practice entitled to be sisted as Representative, Trustee, or Guardian, or in any other Relation to any Party who shall be already a Party to the Suit, or who shall have died during the Dependence thereof, and any such Application to be so sisted may lawfully be combined with an Application for Wakening.

PART VII.

Ex parte Procedure and Reponing.

And with respect to the reponing of Parties against whom Decrees have been obtained in absence, and the Assessment of Damages ex parte, be it enacted as follows:

After Appearance entered Decree to be held as pronounced in foro.

179. From and after the Commencement of this Act, every Decree or Judgment to be pronounced after an Appearance has been lodged for any Defender shall be taken to be a Decree in foro contradictorio as against such Defender, although Defences or Answers may not have been lodged on his Behalf; and after Extract thereof such Decree shall not be liable to be opened up as a Decree in Absence by Reduction or Suspension.

Decrees in Absence proceeding on personal Service, or followed by a Charge, to be final after Two Years.

180. Every Decree and Judgment of the Court of Session, obtained against any Defender after the Commencement of this Act, and proceeding upon a Summons or other initial Writ personally served upon or intimated to such Defender, shall, after the Elapse of Two Years from the Date of the Extract of such Decree or Judgment, be final and conclusive against such Defender, in like Manner as a Decree pronounced in foro contradictorio, such Defender being at the Time of Service or Intimation of full Age, of sound Mind, and subject to the Jurisdiction of the Court in the Matter of the Action; and every Decree and Judgment of the Court of Session, although not proceeding upon personal Service, shall, if the Defender has been personally charged to implement the same, be fixed and conclusive against such Defender after the Elapse of Two Years from the Date of the Charge, such Defender at the Time of Service being of full Age, of sound Mind, and subject to the Jurisdiction of the Court, and being also of sound Mind at the Time when he was personally charged as aforesaid.

Parties may be reponed against Decree in Absence.

181. Any Party wishing to be reponed against a Decree pronounced in Absence may apply to the Division of the Court in which the Cause depends, at any Time before Extract or Implement of such Decree, by a Reclaiming Note, accompanied with the Defences, Answers, or other Paper required; and the Court, if satisfied that the Defender has some reasonable Defence on the Merits of the Action, may remit to the Lord Ordinary to repone the Party, on Payment of such Expenses as his Lordship may think reasonable, and all after Proceedings and Interlocutors shall be held to be in foro. Similar Procedure may be had for Relief against a Decree pronounced against a Party in the Outer House for Default in lodging Defences or Answers after Appearance has been entered, or for Failure

to

to implement any Order; and such Reclaiming Notes shall not be received by the Inner House Clerks unless accompanied with the Defences, Answers, or other Paper required.

Assessment of Damages in case of Non-appearance.

182. It shall not be competent hereafter in any Action or Proceeding in the Court of Session to grant Decree in any Action of Damages for an arbitrary or random Sum of Money; but in all such Cases, where Judgment is moved for in absence or by default, the Lord Ordinary or the Court shall in the first place find the Defender liable in Payment of Damages to the Pursuer in respect of the Cause of Action, and shall direct the Damages to be assessed at an Inquiry before himself, or shall remit to One of the Examiners for that Purpose.

Procedure at Inquiry for Assessment of Damages.

183. In either Case a Diet of Inquiry shall be appointed, of which Intimation shall be made to the Defender or his known Agent; at which Diet the Pursuer shall adduce such Evidence as may be requisite in Proof of the Extent of the Damage sustained by him in respect of the Cause of Action: Provided always, that where it shall appear to the Lord Ordinary that the Assessment of Damages in any Case is substantially a Matter of Calculation, he may, instead of allowing a Proof, remit to the Examiner, with Directions to receive such documentary Evidence as may be necessary, together with the Pursuer's Affidavit in support thereof, and to compute the Amount.

Defender may appear, and lead Evidence in mitigation of Damages.

184. The Defender may attend the Diet of Inquiry, and may for that Purpose, at any Time before the Inquiry has been commenced, enter Appearance as of course, or with Leave of the Lord Ordinary or the Examiner at any Time before the Conclusion of the Inquiry, and may thereupon lead Evidence in abatement or mitigation of Damages, but shall not be at liberty to deny Liability, or to maintain any Defence which ought to have been expressly pleaded; and the Defender, by appearing at the Diet of Inquiry, shall be held to have waived his Right to defend upon any other Ground, or to have the Decree to be pronounced in the Action reduced, or otherwise opened up as a Decree in Absence.

Judgment after Inquiry to assess Damages.

185. No Record shall be kept of the Evidence adduced at any such Inquiry as aforesaid. Where the Inquiry is before an Examiner the Amount of Damages to which the Pursuer is entitled shall be certified to the Lord Ordinary in One Sum. The Lord Ordinary shall, in respect of the Inquiry before himself, or of the Examiner's Certificate, as the Case may be, give Judgment for the Amount so ascertained, with Expenses; and his Judgment shall not in any such Case be liable to be reduced or opened up as a Decree in

Absence, unless the Defender shall satisfy the Lord Ordinary or the Court that he has some reasonable Ground of Defence involving other Matters than the mere Amount of the Damage, and then only upon Payment of the Pursuer's taxed Expenses.

Protestations may be put up for not calling the Summons.

186. In case the Pursuer of any Action shall fail to call the same on the First Calling Day after the Expiration of the Induciæ thereof, Protestation may be put up by the Defender in the Minute Book of the Court of Session; and the Extract thereof shall contain a Decerniture for Three Pounds Three Shillings of Protestation Money as Expenses.

Reponing against such Protestation.

187. The Pursuer may be reponed against such Protestation at any Time not later than Ten Days after the same shall have been given out for Extract, whether Extract shall have issued or not, by lodging the Summons in the Hands of the Clerk for Calling, accompanied with the Receipt of the Defender's Agent for the said Sum of Three Pounds Three Shillings of Protestation Money, or by consigning the Money in the Hands of the Clerk, for the Use of the Defender's Agent, and payable to him, on Demand; provided also, that it shall not be competent to put up Protestation for not insisting after Defences have been lodged.

In lieu of Protestation for not enrolling, Defender may move to have Action dismissed.

188. It shall no longer be competent for a Defender to put up Protestation for not enrolling and insisting in any Action or Proceeding in the Court of Session, but in the event of the Pursuer failing to proceed with the Action after Appearance has been entered the Defender may move the Lord Ordinary to have the Action dismissed for Want of Prosecution.

PART VIII.

Appeals from Inferior Courts and Suspensions.

And with respect to the Review of the Proceedings of Inferior Courts, be it enacted as follows:

Actions below 25*l.* to be commenced in Inferior Courts.

189. All Actions instituted for the Recovery of Money only, where the Sum claimed is less than Twenty-five Pounds, shall be instituted before some Inferior Court or Judge in Scotland, if there be any, having Jurisdiction in the Action, and entitled to decide between the Parties.

Process of Advocations abolished.

190. The Process of Advocation shall be and the same is hereby abolished.

191. When

Appeal of final Judgments of Inferior Courts.

191. When an Interlocutor deciding or finally disposing of the whole Cause (herein-after termed a final Judgment) has been pronounced by any Inferior Court or Judge in any Civil Action, such Cause may, subject to the Exceptions herein-after specified, be removed to the Court of Session, and the whole Judgments and Interlocutors pronounced therein by such Inferior Court or Judge submitted to the Review of the Court of Session by Appeal in manner herein-after provided; which Appeal may be taken at any Time before Extract of such final Judgment.

Restriction of Appeals from Judgments against the Defender.

192. When the Judgment of the Inferior Court or Judge is against the Defender, and is a Judgment for Money only, and the Sum awarded or decerned for, inclusive of Interest, but exclusive of Expenses, does not exceed Twenty-five Pounds, it shall not be competent for such Defender to appeal to the Court of Session; nor shall it be competent for the Pursuer to appeal in such Case, unless the Amount of Money which in the Action he sought to recover, after giving Effect to any counter Claim or Set-off admitted by him, and any Abandonment or Restriction of his Demand which he may have made in the Inferior Court, shall exceed by at least Twenty-five Pounds the Sum awarded or decerned for in his Favour, inclusive of Interest, but exclusive of Expenses as aforesaid, or unless he in his Action concludes for some other Remedy besides or alternatively with a Judgment for Money.

Restriction of Appeals from Judgments against the Pursuer.

193. If the Pursuer seeks in the Action to recover Money only, and that to an Amount not exceeding Twenty-five Pounds, inclusive of Interest to the Date of the Action, but exclusive of Expenses, and the Effect of the Judgment is to assoilzie the Defender or dismiss the Action, the Pursuer shall not be at liberty to appeal to the Court of Session. In estimating the Amount sought to be recovered with reference to the Matter of Appeal, Effect shall be given to any Restriction or Abandonment of his Demand by the Pursuer, and also to any Payment to account, and any counter Claim or Set-off admitted by him.

Effect to be given to Restriction of Action or Judgment.

194. The Pursuer may at any Time, and even after final Judgment by the Inferior Court or Judge, restrict and reduce his Demand to a Sum not exceeding Twenty-five Pounds, inclusive of Interest, but exclusive of Expenses, to the Effect of rendering it incompetent for the Defender to take or longer to insist in an Appeal to the Court of Session, and the Defender may at any Time after final Judgment in the Inferior Court and to the Effect of rendering it incompetent for the Pursuer to take or longer to insist in an Appeal to the Court of Session, tender Payment of as much Money as will reduce the

Difference between the Sum awarded and decerned for by such Judgment, and the Sum demanded by the Pursuer, to an Amount not exceeding Twenty-five Pounds: Provided always, that if such Restriction or Tender shall be made after Expenses have been incurred in an Appeal duly taken, it shall be held to include a Tender of such Expenses, which shall be awarded, taxed, and decerned for in the Court of Session accordingly.

Form of Appeal.

195. An Appeal to the Court of Session may be taken under this Act by a Note of Appeal written at the End or on the Margin of the final Judgment of the Inferior Court or Judge, or of any Note thereto annexed, and such Note of Appeal may be in the following or similar Terms:

'The Pursuer [*or* Defender *or other Party*] appeals the whole 'Cause to the First [*or* Second] Division of the Court of Session.'

And the said Note shall be signed by the Appellant or his Agent, and shall bear the Date on which it was signed.

Time at which Decrees of Inferior Courts may be extracted, and Appeal foreclosed.

196. Where a Party intending to appeal any such final Judgment shall make Intimation in Writing to the Clerk of Court to that Effect, the Space of Fifteen Days in the ordinary Case, and Thirty Days in Causes before the Courts of Orkney and Shetland, shall be allowed after the Date of such final Judgment, during which Extract shall not be competent; but on the Elapse of the foresaid Terms respectively, if no Note of Appeal shall have been signed, the Clerk of Court may give out the Extract, it being competent, however, to sign such Appeal at any Time before the Judgment has been actually extracted.

Effect of Appeal from final Judgment.

197. Such Appeal shall be effectual to remove the Cause to the Court of Session, and to submit to the Review of that Court the whole Interlocutors and Judgments pronounced therein, not only at the Instance of the Appellant, but also at the Instance of every other Party in the Cause, to the Effect of enabling the Court to do complete Justice, without Hindrance from the Terms of any Interlocutor in the Cause, and without the Necessity of any counter Appeal; and an Appellant shall not be at liberty to withdraw or abandon an Appeal without Leave of the Court; and an Appeal may be insisted in by any Party in the Cause, other than the Appellant, in the same Manner and to the like Effect as if it had been taken by himself.

Notice of Appeal to be given to the opposite Party.

198. The Appellant shall give Notice of his Appeal to the other Party within Four Days after signing the Note of Appeal; provided always, that any Omission or Failure to give such Notice shall not invalidate the Appeal, but that the Court of Session may give such Remedy

Remedy for any Disadvantage or Inconvenience thereby occasioned as may in the Circumstances appear proper.

Procedure for bringing Appeal into Court.

199. Within Four Days after the Note of Appeal shall have been signed, the Clerk of the Inferior Court shall transmit the Process to One of the Clerks of the Division of the Court to which the Appeal is taken, or his Assistant, and the Appellant shall and may, within Fourteen Days after the Date of the Note of Appeal, cause the Inferior Court Record or Pleadings, and the Interlocutors in Causa and Note of Appeal, and the Notes of the Evidence, if any, and such Productions as may be necessary to enable the Court to dispose of the Appeal, to be printed and boxed to the Court; and it shall be lawful thereafter to enrol the Appeal in the Single Bill Roll, and to move that it be remitted to the Roll of Appeals herein-after mentioned; and in case the Record and other Matters before specified shall not be printed and boxed by the Appellant, or in case he shall not move in the Appeal, it shall be lawful for any other Party in the Cause to move the Court either to dismiss the Appeal with Expenses, and to affirm or adhere to the Interlocutor of the Inferior Court, or else to grant an Order authorizing the Party moving to print and box the Record and other Matters aforesaid, and to insist in the Appeal as if it had been taken by himself.

Mistake or Omission in regard to printing may be rectified.

200. No Objection shall be taken to the Competency of any Appeal on the Ground of Omission to print and box any Matter, other than the Record and Interlocutor appealed from; but it shall be in the Power of the Court to direct that any Matter inadvertently or improperly omitted to be printed, shall be supplied by an additional Print, the Expenses occasioned by any Adjournment of the Hearing for that Purpose being borne by the Party responsible for the Omission.

Appeals not to be refused or retarded on account of Error or Informality.

201. Subject to the aforesaid Provisions with respect to the printing and boxing of Appeals, no Appeal taken properly and timeously shall be refused or dismissed, or the Hearing therein retarded, on account of any Error, Defect, or Informality in the subsequent Procedure by which Parties have not been prejudiced.

Hearing of Appeals.

202. All Appeals under this Act shall be sent to a Roll to be kept in each Division for such Appeals only, and which shall be called the Roll of Appeals; and the Appeals enrolled in each Division respectively shall be entered in such Roll in the Order of their Enrolment, and shall be heard in that Order; and each Division shall on the First Sederunt Day of each Week publicly announce the Day or Days of the following Week upon which the Causes in the Appeal Roll are to be heard, and the said Roll shall on such Day or Days take precedence of all other Proceedings.

 203. The

Judgment on Appeals.

203. The Court shall pronounce Judgment on the Merits of the Cause according to the Law truly applicable in the Circumstances, though not pleaded in the Record; and the Record may, with Leave of the Court, be amended at any Time, and that to whatever Extent may be necessary to enable the Court to decide in the Appeal the Matters truly in controversy between the Parties.

Court may direct Inquiry into Facts before Examiner, or of Consent, may direct an Issue.

204. Should any Inquiry in point of fact be necessary to enable the Court to pronounce Judgment in any Appeal under this Act, such Inquiry shall take place before One of the Examiners of the Court, unless both Parties shall concur in moving for a Trial by Jury, in which Case it shall be lawful for the Court to pronounce an Interlocutor directing an Issue or Issues to be tried by Jury in conformity with the preceding Provisions of this Act; and all Proceedings for setting aside any Verdict obtained upon the Trial of such Issues shall be taken in the same Form and Manner, and with the same Right of Appeal, as in Cases originating in the Court of Session.

Case to be restored to its Place in the Roll after Inquiry or Amendment.

205. No Appeal shall lose its Place in the Roll on account of the Necessity of making any Amendment or of taking Evidence, but the Hearing shall be resumed as soon as the Evidence is taken or the Amendment made.

Remits to the Outer House prohibited.

206. It shall be incompetent to remit any Appeal under this Act to the Outer House.

Appeals with Leave of the Inferior Court, and Appeals from Interlocutory Judgments.

207. Notwithstanding any of the Provisions herein contained, an Appeal under this Act shall be competent in any Civil Cause whatever originating in any Inferior Court, and at any Stage of such Cause after the Record is closed, and also in any Action or Prosecution for a pecuniary Penalty or Penalties, (including Prosecutions in Cases where the Court or Judge is empowered to award a Sentence of Imprisonment in default of Payment,) upon Matter of Law or Competency, if proceeding upon a Certificate by the Sheriff, Sheriff Substitute, or other Inferior Judge, which may be written on the Interlocutor Sheet, that an Appeal in that Cause and at that Stage is in his Opinion reasonable and expedient, and an Appeal proceeding upon such Certificate may be taken in manner herein-before provided, and shall have all the Effects allowed to any Appeal under this Act, provided the Note of Appeal is signed within Eight Days after the Date of such Certificate; and the Judge shall not be at liberty to refuse such Certificate when it is applied for within Eight Days after the Date of an Interlocutor sisting Process or granting Interim Interdict, or granting Interim Decree for Payment of the Money to the Extent of Twenty-five Pounds.

208. In

Appeals from Interlocutors allowing Proof.

208. In all Causes originating in the Inferior Courts, in which the Claim is in Amount above Twenty-five Pounds, as soon as an Order or Interlocutor allowing a Proof has been pronounced in the Inferior Court (unless it be an Interlocutor allowing a Proof to lie in retentis, or granting Diligence for the Recovery and Production of Documents), it shall be competent to either of the Parties to remove the Process into the Court of Session by Appeal in manner herein-before provided, which Appeal shall have all the Effects allowed to any Appeal under this Act, provided the Note of Appeal is signed within Eight Days after the Date of the Interlocutor.

Proceedings in lieu of Advocation ob contingentiam.

209. In lieu of Advocations of Actions and Proceedings in Inferior Courts ob contingentiam of a Process in the Court of Session, it shall be lawful for the Party desiring to remove any such Action or Proceeding to the Court of Session, to lay before the Lord Ordinary, before whom or the Division of the Court in which such Court of Session Process shall actually be at the Time, a Copy of the Inferior Court Record (or such Papers as may have been lodged), and of the Interlocutors in the Cause, certified by the Clerk of the said Inferior Court, and to move for the Transmission of the Inferior Court Process to such Court of Session Process, for the Purpose of Conjunction; and if upon Consideration of the Record the said Lord Ordinary or Division of the Court shall be of opinion that there is such Contingency as would render a Conjunction of the Processes expedient at that Stage, he or they shall grant Warrant to the Clerk of the Inferior Court Process for the Transmission thereof, and shall upon such Transmission being made conjoin the Processes, which shall thenceforth be proceeded with in all respects as if both Actions had originated in the Court of Session.

Finality of Orders in such Cases.

210. The Decision of the Lord Ordinary or the Court, as the Case may be, upon any such Motion for Transmission and Conjunction, shall be final at that Stage; provided that in the event of the Application being refused it shall be competent for either Party to renew the Motion at any subsequent Stage of the Cause.

Appeals substituted for Advocations under any Special Act now in force.

211. Where, by the Provisions of any Statute now in force, special Provision is made for removing any Action or Proceeding in any Inferior Court to the Court of Session by Advocation, it shall be lawful to remove any such Action or Proceeding to the Court of Session by Note of Appeal under this Act, at the same Stage of the Cause, for the same Purpose, and with such and the like Restrictions as are provided by the Statute; and such Appeal shall be brought into Court, and if competent shall be remitted to the Roll of Appeals as herein-before provided, and thereupon the Cause shall be dealt with as by the Statute provided.

 212. Where

Exclusion or Restriction of Review by Advocation under any Special Act now in force to imply Exclusion of Review by Appeal.

212. Where by any Statute now in force Jurisdiction is given to any Inferior Court or Courts in relation to any other special Cause of Action, Matter, or Thing, and where by such or any relative Statute the Right of Review by Advocation in the Court of Session is excluded or restricted, such Exclusion or Restriction of Review shall be deemed and taken to apply to Review by Appeal without Leave under this Act, as well as to Review by Advocation, but shall not be effectual to prevent an Appeal being taken to the Court of Session, with Leave of the Judge in the Inferior Court under this Act.

Lord President may transfer Appeals to a Quorum of the Outer House Judges sitting as a Division.

213. The Roll of Appeals of each Division, showing the whole Causes standing thereon undisposed of, shall be constantly exhibited during Session upon the Wall of the Court; and it shall be lawful to the Lord President, should the due Despatch of the Business of said Roll appear to him to require it, to direct the Lords Ordinaries to sit together as a Court, of which Three shall be a Quorum, on such Days and during such Hours as he may appoint, having due Regard to the Business of the Outer House, for hearing and deciding Causes in the said Roll of Appeals; and the Lords Ordinaries may sit together as a Court accordingly, upon the verbal Requisition of the Lord President, without the Necessity of any written Order or Authority; and any Three Lords Ordinaries shall form a Quorum; and such Court shall, for the Purpose of hearing and disposing of Appeals under this Act, have the same Jurisdiction, Power, and Authority as either Division of the Court of Session, and their Judgments and Orders shall be regarded as Judgments and Orders of the Inner House of the Court of Session in the Division in which the Appeal depends, and shall be signed by the Senior Judge present, in Presence of the others; and any Depute or Assistant Clerk of Session may officiate as Clerk in said Court, and shall be bound to do so when required by the Lord President; and the Causes to be heard and determined by such Court shall be selected by the Lord President; and such Court may lawfully sit for the Despatch of such Business as aforesaid during Vacation, as well as during Session.

Provisions of this Part of the Act to apply to depending Advocations.

214. The whole Provisions of Part VIII. of this Act shall so far as possible apply to all Advocations in dependence before the Court of Session at the Commencement of the Act, and all such Advocations shall be inserted in the Roll of Appeals herein-before directed to be kept, according to their Dates, and shall be disposed of as by this Act directed with respect to Appeals of a similar Description.

Regulation of interim Possession

215. In all Cases where the Judgment of any Inferior Court shall be brought under the Review of the Court of Session by Appeal, Suspension,

Suspension, or otherwise, it shall be competent to the Inferior Court to regulate in the meantime, on the Application of either Party, all Matters relating to interim Possession, having due Regard to the Manner in which the mutual Interests of the Parties may be affected in the final Decision of the Cause; and such interim Order shall not be subject to Review, except by the Court at the Hearing of such Appeal or other Proceeding; reserving to the Court full Power at the Hearing of such Appeal, Suspension, or other Proceeding to give such Orders and Directions in respect to interim Possession as Justice may require. pending Appeal.

216. When any Judgment shall be pronounced by an Inferior Court ordaining a Tenant to remove from the Possession of Lands or Houses, the Tenant shall not be entitled to bring such Judgment under Review by Appeal, but only by a Note of Suspension, upon Consignation of the Expenses decerned for in such Inferior Court. Exclusion of Review by Appeal in Actions of Removing.

217. Where the Judgment of any Inferior Court shall be brought under Review of the Court of Session by Appeal, Suspension, or otherwise, it shall be competent, except in the Case of Appeals under Section 208 of this Act, to remit the Cause to the Inferior Court, with Instructions how to proceed; but no such Remit shall be made without hearing the Appellant or Complainer, except in the Case of a Suspension of a Decree in Absence. Provision as to Remits to Inferior Courts.

218. It shall be competent in all Civil Actions instituted in the Inferior Courts, where the Value of the Action is under Fifty Pounds, and also in all Actions and Prosecutions for pecuniary Penalties, (including Prosecutions in Cases where the Court or Judge is empowered to award a Sentence of Imprisonment in default of Payment,) to appeal to the Circuit Court of Justiciary having Jurisdiction in the County, if any, against the final Decree or Sentence pronounced in any such Action or Proceeding upon any Matter of Law or Competency arising therein, in the Manner and Form, and under the Rules, Limitations, and Conditions contained in an Act passed in the Twentieth Year of the Reign of His Majesty King George the Second, Chapter Forty-three; and the Sheriff or Inferior Court Judge shall, if desired by the Appellant, set forth the Facts necessary for the Determination of such Matter of Law or Competency in the Form of a Special Case for the Opinion of the Court, which shall be communicated to the Parties, in draft, and may be amended before signing. Summary Appeal to the Court of Justiciary or Court of Session in certain Cases.

219. When a Judgment of any Inferior Court pronounced in foro, which may according to the existing Practice be brought under the Review Suspensions of Decrees in foro of Inferior

Courts to be brought in the Bill Chamber.

Review of the Court of Session by Suspension, with the Exception of any Judgment pronounced in Actions of Removing, is intended to be brought under Review in that Form, it shall be competent, on Consignation of the Expenses decerned for in the Inferior Court, to suspend the Decree and any Diligence or Proceedings following thereon, by lodging in the Bill Chamber a written Note of Suspension, signed by an Agent in the Court of Session, reciting the Import and Effect of the Decree sought to be suspended, and setting forth in the Prayer thereof the Remedy craved, the Presentment of which Note, on being certified by the Clerk of the Bills or his Assistant, shall operate as an interim Sist of Diligence; and on Consignation of the Amount of Expenses decerned for in the Inferior Court, as instructed by the Charge or other reasonable Evidence, the Clerk shall issue his Certificate accordingly, and the Note shall thereupon be laid before the Lord Ordinary on the Bills, and shall be passed; and the Clerk of the Bills shall thereupon certiorate the Clerk of the Inferior Court of the passing of such Note, who shall forthwith transmit the Process to the Bill Chamber; and such Note and Interlocutor passing the same shall be served upon the opposite Party in common Form.

After Note passed, Case to go to Roll of Appeals.

220. After Service and Transmission of the Inferior Court Process as aforesaid, it shall be competent for either Party to transmit the Process from the Bill Chamber to the Inner House, for Enrolment in the Roll of Appeals of the Division of the Court to which such Note of Suspension shall be appropriated by the Complainer's Indorsement; and after such Enrolment the Case shall be dealt with in all respects as is herein provided with respect to Appeals from Inferior Courts.

Suspensions of Decrees in Absence to be brought in the Bill Chamber.

221. It shall be lawful for any Party to bring a Suspension of any Decree in Absence pronounced in the Court of Session by lodging in the Bill Chamber a Note of Suspension of the Form and Effect of Notes of Suspension herein-before allowed to be brought of Decrees in foro of Inferior Courts, together with Defences or Answers to the Summons or other initial Writ in the original Action; and upon Consignation in the Hands of the Clerk of the Bills of such Expenses as have been decerned for the Clerk shall issue his Certificate of Presentment, which shall operate as a Sist of Diligence; and the Lord Ordinary on the Bills shall, if satisfied that the Suspender has some reasonable Ground for claiming Relief against such Decree on the Merits of the Matter in dispute, forthwith pass the Note, and shall at the same Time grant Warrant for the Transmission of the Proceedings in the original Action to the Bill Chamber, which Warrant shall be intimated by the Clerk of the Bills to the Extractor or Keeper of the Records, who shall transmit the Proceedings

ceedings accordingly; and the said Lord Ordinary shall have Power to award to the Pursuer in the original Action such Part of the Expenses consigned as may be just; and such Note of Suspension and Interlocutor passing the same shall be served upon the opposite Party in common Form; and after Service, and as soon as the Proceedings in the original Action have been transmitted, either Party may enrol the Case before the Judge who pronounced the Decree, and the like Proceedings may be had in such Suspension as if Defences had been lodged in the original Action.

Provision where Note refused.

222. If the Lord Ordinary on the Bills shall not be satisfied that the Complainer in such Note of Suspension has some reasonable Ground for claiming Relief on the Merits of the Question in dispute, he shall refuse the Note, and his Interlocutor refusing the same shall be final, and Execution may immediately proceed upon the Decree in the original Action; and no Second Note of Suspension shall be allowed upon the same Grounds; but without Prejudice to the Right of the Party to claim Relief by Note of Suspension in manner hereinafter provided against any Illegality in the Enforcement of the Decree by Diligence; provided also, that, notwithstanding of the Refusal of any such Suspension, it shall be lawful for the Defender against whom Decree has been obtained in Absence as aforesaid to institute Proceedings for the Reduction thereof as a Decree in Absence.

Suspensions in the Bill Chamber to be disposed of upon Condescendence and Answers.

223. All Proceedings for Suspension, or Suspension and Interdict, or Suspension and Liberation, other than those herein-before specified, shall and may be instituted by lodging in the Bill Chamber a written Note of Suspension, with a Memorandum of the Division of the Court and Lord Ordinary before whom the same is to be brought endorsed thereon, and a Condescendence of the Grounds of Suspension annexed, which shall be drawn in conformity with the Requirements of Part II. of this Act; and such Note of Suspension shall be received and marked by the Clerk of the Bill Chamber, and be forthwith laid before the Lord Ordinary on the Bills, who shall pronounce such Order or Interlocutor thereon as may be just; and the Note and Order or Interlocutor thereon shall be served upon the Respondent in common Form, and shall be answered within the Time allowed by the Lord Ordinary, the Answer being in the Form provided in Part II. of this Act with respect to Defences.

If Note passed, Action may be immediately called, and Record made

224. In case the Note shall be passed in the Bill Chamber, it shall be lawful for either Party immediately to lodge the Process with the Depute Clerk of Session or his Assistant for Calling, without abiding any Induciæ; and within Eight Days after Publication in the Calling

up by Replication and Rejoinder.

Calling List the Complainer may, if necessary, lodge a Replication; and the Defender may, if necessary, lodge a Rejoinder within Eight Days thereafter, and the subsequent Procedure shall be the same as in any ordinary Action.

Reclaiming Notes against Interlocutors in Bill Chamber Cases.

225. Interlocutors pronounced by the Lord Ordinary on the Bills shall be subject to Review by presenting a Reclaiming Note to the Inner House within Eight Days after the Date thereof; and the Court, after hearing Parties, may either grant or, refuse the Application, or remit to the Lord Ordinary to pass or to refuse the Note, or to remit to the Inferior Court with Instructions; and any Interlocutor of the Court refusing the Application, or of the Lord Ordinary on a Remit from the Court, shall be final in the Court of Session: Provided always, that such Reclaiming Notes shall neither prevent the Clerk of the Bills from issuing the passed Note or a Certificate of Refusal, as the Case may be, nor hinder the Interlocutor submitted to Review from being carried into effect, unless the Lord Ordinary on the Bills shall stay Proceedings on special Cause shown, by prohibiting the Delivery of the Note or Certificate for such Time and upon such Terms as he may judge reasonable; and the Practice as to Caution in the Bill Chamber, shall, unless altered by Act of Sederunt, remain as at present.

Limiting Period for Reduction.

226. It shall not be competent to reduce or to suspend any Decree of an Inferior Court at the Instance of a Party who shall have appeared in such Inferior Court in the Action or Proceeding, or his Representatives, after the Elapse of Two Years from the Date of Extract of such Decree.

PART IX.

Summary Petitions.

And with respect to Procedure by Summary Petition, be it enacted as follows:

Petitions not incident to Proceedings in the Inner House to be brought in the first instance before the Lord Ordinary.

227. All Summary Petitions and Applications to the Lords of Council and Session which are not incident to Actions or Causes actually depending before One of the Divisions of the Court at the Time of presenting such Petition or Application, except Petitions for the Sequestration of Heritable Estate, and Petitions for proving the Tenor under this Act, shall be brought in the first instance before any One of the Lords Ordinaries in the Outer House, if presented during Session, and before the Lord Ordinary officiating on the Bills if presented during the Spring or Autumn Vacation or Christmas Recess.

228. All

228. All depending Petitions and Applications in which no Step has been taken before the present Junior Lord Ordinary, before this Act comes into operation, shall be transmitted to the Offices of the respective Depute Clerks of Session in which they were originally lodged, and shall from and after such Transmission depend before the Lords Ordinaries to whom such Clerks are respectively attached, or their Successors in Office, and all other Petitions depending before the present Junior Lord Ordinary shall remain in the Office where they now are, and shall not be transmitted to the next Junior Lord Ordinary in the event of a Vacancy occurring in the Bench.

Regulation as to Petitions now depending before the Junior Lord Ordinary.

229. The Lord Ordinary shall at the First Enrolment of any Petition or Application direct Intimation to be made to the Respondents therein, in Terms of the Prayer or of any Amendment thereon which he may allow to be made, and shall at the same Time allow Answers to be given in within a certain Time. Such Answers shall consist of a Statement of the Respondent's Grounds or Ground of Defence to the Prayer of the Petition, and may be divided into Articles or Paragraphs, but it shall not be necessary to return articulate Answers to the several Allegations in Fact contained in the Petition.

Regulation as to Intimation of Petitions and Allowance of Answers.

230. If Answers are lodged, the Lord Ordinary shall, if the Parties desire it, allow the Petition and Answers to be amended by way of marginal Addition at the Discretion of the Parties, and may, if he think fit, allow any Part of the Petition or Answers to be deleted, such Amendment being authenticated by the Counsel for the respective Parties in the usual Way.

Amendment of Petiton and Answers.

231. The Lord Ordinary before whom any Petition, Application, or Report shall be enrolled or brought shall have full Power to decide and dispose of the same, after making such Investigation and requiring such Assistance from Professional Persons or Persons of Science and Skill as he shall judge proper; and his Judgment upon the Merits shall be subject to Review by Reclaiming Note, but it shall not be competent to bring under the Review of the Court any Interlocutor pronounced by the Lord Ordinary upon any such Petition, Application, or Report as aforesaid, with a view to Investigation and Inquiry merely, and which does not finally dispose thereof upon the Merits; and the Judgment of the Lord Ordinary granting or refusing such Petition or Application, or disposing of any such Report, shall be effectual as a Judgment of the Court upon the same, but shall not be subject to Appeal, unless the same shall be brought under Review

Inquiry and Judgment upon Summary Petitions.

of the Court as herein-before provided; but nothing herein contained shall affect the Right of any Party interested to apply for the Recall of any Appointment or Order pronounced upon such Petition, Application, or Report which may competently be made the Subject of Recall according to the existing Practice.

Lord Ordinary may report to the Inner House.

232. In Cases of Urgency the Lord Ordinary may report verbally to the Division in which the Petition or Application depends; and in such Cases the Lord Ordinary shall sit along with the Judges in such Division for the Time, but shall not be entitled to vote in the Division; and shall thereafter give Judgment in conformity with the Opinion and Direction of the said Division.

Court may remit to the Lord Ordinary officiating on the Bills in Vacation.

233. It shall be lawful for either of the Divisions of the Court to remit any Petition depending before them at the Termination of the Session (whether on Reclaiming Note or otherwise) to the Lord Ordinary officiating on the Bills in Vacation, with general Powers to make any Interim Appointment, Interim Order for Payment, or Order ad factum præstandum, or for Inquiry, in case Circumstances should occur to render such Appointment or Order expedient; but such Remit shall ipso facto fall at the Commencement of the ensuing Session.

PART X.

Inner House Procedure.

And with respect to the Review of Judgments pronounced by the Lords Ordinaries, and the Forms of Procedure before the Divisions of the Court, be it enacted as follows:

Form of Reclaiming Note. Schedule F.

234. Reclaiming Notes to the Inner House against Interlocutors of Lords Ordinaries (Schedule F.) shall not hereafter contain any Prayer, but shall bear in general Terms that the Interlocutor reclaimed against is submitted to Review; and it shall be competent to present a Reclaiming Note against any Interlocutor of a Lord Ordinary at any Time after the same is pronounced, and before Extract or Implement of an Interlocutor or Decree, whereby the whole Cause has been decided in the Outer House: Provided that a Reclaiming Note may be presented, and the Court may allow it to be received at any Time before a Charge has been given or Diligence used upon the Extract of such Interlocutor or Decree, and in that Case the Reclaimer, if ultimately successful, may have Relief upon the Merits and against any Award of Expenses against him, but shall not recover any Expenses from the other Party.

235. Every

Effect to be given to Reclaiming Note against final Judgment.

235. Every Reclaiming Note, whether presented before or after the whole Cause has been decided in the Outer House, and in whatever Terms the same may be expressed, shall have the Effect of subjecting to the Review of the Inner House the whole of the Interlocutors prefixed thereto, and against which it bears to be taken, and also the whole of every prior Interlocutor of the Lord Ordinary, of whatever Date, not only at the Instance of the Party reclaiming, but also at the Instance of all the other Parties in the Cause, to the Effect of enabling the Court to do complete Justice, without Hindrance from the Terms of any Interlocutor which may have been pronounced by the Lord Ordinary, and without the Necessity of any counter Reclaiming Note; and after a Reclaiming Note has been presented the Reclaimer shall not be at liberty to withdraw it without the Consent of all the other Parties in the Cause; and if he shall not insist therein, any other Party in the Cause may do so in the same Way as if it had been presented at his own Instance.

Amendment of Reclaiming Note.

236. Any Error or Defect in the Terms of a Reclaiming Note may be amended at any Time, and no Reclaiming Note shall be refused, or the Cause delayed, on account of any such Error or Defect, or on account of the Omission to print any Matter other than the Record or Pleadings and Interlocutor reclaimed against.

Definition of final Judgment in the OuterHouse.

237. It shall be held that the whole Cause has been decided in the Outer House when an Interlocutor has been pronounced by the Lord Ordinary which either by itself or taken along with previous Interlocutors leaves nothing further to be decided in the Cause, although Judgment shall not have been pronounced upon all the Points or Questions raised in the Cause; but it shall not prevent a Cause from being held as so decided that Expenses, if found due, have not been taxed, modified, or decerned for; and where there are more than One Pursuer or more than One Defender in a Cause, such Cause shall not be held to have been finally decided until it shall have been so decided with respect to all of them.

Reclaiming Note against interlocutory Judgment not to have the Effect of removing the Cause, unless the Lord Ordinary so direct.

238. A Reclaiming Note presented before the whole Cause has been decided in the Outer House, may be brought by lodging such Note with One of the Clerks of the Division of the Court in which the Cause depends, without lodging any other Paper therewith; and such Note shall not have the Effect of removing the Cause or the Process from the Outer House, or of staying Procedure before the Lord Ordinary, or of excusing Obedience to the Interlocutor reclaimed against, unless the Lord Ordinary shall otherwise direct, upon Motion made for that Purpose; and the Decision of the Lord Ordinary on such Motion shall be final.

 239. Failing

Provision for enabling the Court to pronounce Judgment in such Cases.

239. Failing such Direction as aforesaid, the Process shall remain, and the Cause shall proceed in the Outer House in all respects as if no such Reclaiming Note had been presented, until it is advised by the Inner House, when the Court shall pronounce such Judgment or Order as it shall see fit; and when the Cause shall be called for Hearing in the Inner House on such Reclaiming Note, the Interlocutor Sheet shall be delivered to such Inner House Clerk, that the Judgment of the Court may be written thereon; and the Process shall, if required by either Party or by the Court, be delivered to the Inner House Clerk, but shall nevertheless be considered as still in the Outer House.

After final Judgment Cause not to be remitted.

240. After the whole Cause has been decided in the Outer House, within the Meaning of this Act, it shall not be lawful for the Inner House to remit the same back to the Outer House, but the Cause, when taken to the Inner House, after having been so decided in the Outer House, even though the Interlocutor of the Lord Ordinary or any of the Procedure shall be held to have been incompetent, shall remain in the Inner House until it shall be finally and completely decided in the Court of Session.

Final Decree in the Outer House may be extracted after the Elapse of Ten Days.

Provision as to Interim Extract of interlocutory Decrees.

241. It shall not be lawful to extract any Decree or Interlocutor, whereby the whole Cause has been decided in the Outer House, within the Meaning of this Act, until the Elapse of Twenty-one Days from the Date thereof; and it shall not be lawful to extract any Interim Decree or Act and Warrant pronounced in the Outer House until the Elapse of Eight Days from the Date thereof, without special Allowance; and it shall not be lawful to extract any Act and Warrant pronounced by a Judge upon any Summary Petition, or in Bankruptcy Cases, until the Elapse of Eight Days from the Date thereof, without special Allowance: Provided also, that where Extract shall be allowed to go out ad interim within a shorter Period than is herein-before specified, in respect of Urgency or otherwise, the Reason for such special Allowance shall be specified in the Interlocutor; but the Provisions of this Section shall not apply to Reclaiming Notes against Interlocutors pronounced in the Bill Chamber under the Provisions herein-before contained.

Certain Decrees to be extractible without special Allowance.

242. Every Decree for Expenses, and every Interim Decree or Act and Warrant, granted during the Dependence of a Process, and which, according to the former Practice, might have been extracted ad interim, if special Allowance to that Effect had been granted by the Lord Ordinary or the Court, shall be extractible ad interim without the Necessity of such special Allowance, unless the Lord Ordinary or the Court shall otherwise direct; and every Decree for Expenses

Expenses shall be held to include a Decree for the Expense of extracting the same.

Inner House may order Repayment of Money, &c. recovered under Interim Decree in Outer House.

243. In the event of any Reclaiming Note against an Interim Decree or Interlocutor pronounced in the Outer House being presented after such Interim Decree has been implemented, it shall be lawful for the Court, in the Interlocutor recalling or altering such Interim Decree or Interlocutor, to order the Repayment of any Money recovered in Implement thereof, or to pronounce such other Order or Warrant ad factum præstandum as may be necessary in order to give Effect to such Recall or Alteration of the Lord Ordinary's Interlocutor, notwithstanding that the Interlocutor of the Lord Ordinary may have been extracted and put to Execution.

Extension of Time for lodging Papers and reclaiming in Vacation and Recess.

244. Where the Period allowed by this Act for lodging any Report, Production, Pleading, or other Paper shall expire during Vacation or Recess, such Paper shall be returnable on the last Day allowed for lodging the same, if a Box Day, or if otherwise on the next Box Day or Sederunt Day thereafter; and where the Periods of Twenty-one Days and Eight Days within which Extract of certain Decrees, Acts, and Warrants, and Interlocutors, is by this Act prohibited, shall expire on any Day in Vacation or Recess, not being a Box Day, such Period shall be held to be extended so as to include the whole of the next Box Day or Sederunt Day, whichever shall first happen.

Lord Ordinary on the Bills may grant Decree for Default in lodging Paper due on Box Day.

245. The Lord Ordinary officiating on the Bills is hereby empowered to hold a special Sittings on the Second or any subsequent Day which he may appoint after each Box Day in Vacation and Recess, and at such Sittings to grant Decrees in Absence and for Default in lodging Papers due on such Box Day; and for that Purpose the Process may be transmitted from the Office of any Clerk in the Court of Session to the Office of the Clerk of the Bills: Provided always, that the Lord Ordinary on the Bills shall have the same Power of granting Prorogations and of receiving any Paper which the Lord Ordinary or the Court would have had if such Motion for Decree had been made in Time of Session.

Lord Ordinaries not to report Causes.

246. The Practice of reporting Causes to the whole Court and the Practice of reporting Causes and incidental Matters to the Divisions of the Court are hereby abolished, except in so far as relates to the Power herein-before conferred of reporting Questions arising upon Summary Petitions and Applications.

Written Arguments regulated.

247. It shall not be lawful for any Lord Ordinary to order Argument in Writing in any Action or Proceeding whatsoever.

 248. It

Questions of Difficulty and Importance may be ordered to be argued before the whole Court.

248. It shall be competent to either Division of the Court, in respect of the Difficulty and Importance of any Cause, or of any Question of Law arising therein, to direct the Cause or any such Question of Law to be argued before the whole Court, and the Cause or Question shall thereupon be argued before a Quorum of the Division in which the Cause depends, in consultation with the Judges of the other Division and the Lords Ordinaries, or so many of them as can conveniently attend (Seven Judges at least being present at such Hearing); and in the Interlocutor appointing such Hearing the Question or Questions of Law on which the Opinions of the Judges of the other Division and Lords Ordinaries are desired shall be stated, or indicated by Reference to the Record; and the consulted Judges present at the Hearing shall communicate their Opinion or Opinions in Writing to the Division; and the Judgment to be pronounced thereupon shall be according to the Opinion of the Majority of the Judges present at the Hearing, and shall bear to be the Judgment of the Division before which the Cause depends, after consulting with the other Judges.

Provision in case of Death or Resignation of Judges after such Hearing.

249. Seven Judges shall be a Quorum for the Purpose of hearing and determining all Matters referred to the whole Court, and it shall not be necessary to direct a Rehearing of any Case or Matter in consequence of the Death or Resignation of any Judge or Judges present at the Hearing before Judgment shall have been pronounced, unless by reason of such Death or Resignation there shall not remain a Quorum for the Determination of such Case or Matter, or that the Judges who have taken part in the Hearing shall be equally divided in Opinion; and in all Cases where the Judges present at the Hearing of any Argument before the whole Court, or where such of them as may eventually be able to take part in the Judgment, shall be equally divided in Opinion, it shall be lawful for the Division before which the Cause depends to order a Rehearing, upon which the same Procedure shall be had as is herein-before provided with respect to any original Hearing before the whole Court.

After Avizandum made Court not to order Hearing.

250. It shall not be competent to direct any Cause or Question to be argued before the whole Court after the Parties have been fully heard by the Division in which the Cause depends, and Avizandum shall have been made upon the Debate, except in the Case of an equal Division of Opinion upon a Special Verdict or Special Case settled at a Trial, as herein-after provided.

In case of Equality, Interlocutor to be allowed to stand, &c.

251. In the event of the Judges being equally divided in Opinion upon any Question coming before either of the Divisions under a Reclaiming Note or Note of Appeal (including Bankruptcy Appeals), the

the Judgment of the Lord Ordinary or of the Inferior Court, or Resolution or Deliverance in Bankruptcy Cases, shall be affirmed. In the event of the Judges being equally divided in Opinion upon the Merits of any Petition or other Proceeding coming before such Division in the first instance, Judgment shall be given for the Respondent; and in the event of an equal Division in Opinion upon any incidental Motion such Motion shall be refused.

Provision as to equal Division in Jury Cases.

252. No new Trial shall be granted, and no Verdict of a Jury shall be discharged or set aside, by the Division in which the Cause depends, unless in conformity with the Opinion of a Majority of the Judges of the Division, and in case of equal Division Judgment shall be given in conformity with the Verdict.

Hearing may be ordered in case of equal Division of Opinion upon Special Verdict or Case.

253. In the event of the Judges being equally divided in Opinion upon the Matters submitted to either of the Divisions at the Hearing on a Special Verdict or Case (including in this Provision any Matters of Law arising upon the Record which may have been appointed to be argued along with any Special Verdict or Special Case settled at a Jury Trial), the Division may direct a Hearing before the whole Court; and Judgment shall be given in conformity with the Result of such Hearing.

Prorogation of Time for lodging Papers and Reports.

254. The Powers of the Lords Ordinaries and of the Court in relation to the Prorogation of the Time for lodging Minutes and Reports, and also in relation to the Prorogation of Commissions, shall remain as at present, subject to any Regulations which the Court may hereafter think fit to make by Act of Sederunt; and all such Papers and Matters as aforesaid may, if the Court think fit, be received of Consent after the Expiry of the Period allowed for receiving the same; but nothing herein contained shall be taken to authorize the Extension of the Time for lodging any Paper forming Part of the Record in any Action, except in so far as such Extension of Time may be obtained in the Manner herein-before provided.

PART XI.

Constitution of the Court and Distribution of Business.

And whereas some of the Statutes by this Act repealed which relate to the Practice of the Court of Session also contain Provisions relative to the Constitution of the said Court, which have been partially superseded by the Provisions of other Statutes now in force, but it is doubtful how far the general Repeal of such first-

mentioned Statutes might tend to affect the Constitution of the Court as now established: And whereas it is expedient to make further Provision for the Discharge of the Duties of the Lords Ordinaries officiating in the Bill Chamber: Be it enacted and declared as follows:

Constitution of the Outer and Inner Houses of the Court.

255. The Powers of the said Court shall continue to be exercised by the Lord President of the said Court and Three Ordinary Lords of Session sitting in the First Division thereof; the Lord Justice Clerk presiding and Three Ordinary Lords of Session sitting in the Second Division thereof; and the Five Ordinary Lords of Session sitting in the Outer House; and the Junior Judge of the Court of Session for the Time being, sitting in the Outer House, shall in future discharge the Duties of Lord Ordinary in Teind Cases; and the Duties of Lord Ordinary on the Bills shall in Time of Session be discharged by the Lords Ordinaries in monthly Rotation, or in such Order as may be prescribed by Act of Sederunt, and shall during the Spring and Autumn Vacations, and the Christmas Recess, be discharged in Rotation by the Six Judges of the Court of Session who are not also Judges of the Court of Justiciary, in the Manner prescribed by an Act of Sederunt of the Eighth Day of August One thousand eight hundred and thirty-nine, or in such other Order or Rotation as the Court may by any Act or Acts of Sederunt hereafter appoint; with Power to all the Judges of the Court of Session, in case of the Death, Resignation, Indisposition, legal Declinature, or necessary Absence of any of the Six Judges in Vacation or Recess, to act in Place of such Judge.

Vacancies how to be supplied.

256. When any Vacancy shall occur in either of the Divisions by the Death or Resignation of any of the ordinary Judges sitting therein, such Vacancy shall, unless Her Majesty shall otherwise direct, as after mentioned, be supplied by the Senior Judge in the Outer House taking his Seat in such Division as soon as another Judge lawfully appointed shall have taken his Seat in the Outer House.

Her Majesty may in certain Cases allow a Judge to be transferred from one Division to the other.

257. It shall be lawful for Her Majesty, Her Heirs and Successors, upon a Vacancy arising by Death or Resignation in either of the Divisions of the Court, to order and direct by a Warrant under Her Majesty's Sign Manual that any One of the ordinary Judges sitting in the Division where the Vacancy shall not have arisen (if such Judge shall desire it) shall sit in the Division where the Vacancy shall have arisen, and that the Vacancy thus created in the Division from which the said Judge shall have been removed shall be supplied by the Senior Judge officiating in the Outer House, who shall thereby be enabled to sit in the said Division: Provided always, that in the Case of the Removal of any of the said Judges from the one of the said

said Divisions to the other, such Judge shall have Rank and Precedence as an ordinary Judge in the Division to which he shall be removed according to and from the Date of his original Appointment as a Judge of the Court of Session.

Presidency of the Divisions.

258. In the Absence of the Lord President, the Lord Justice Clerk, whom failing the Senior Judge present, shall preside at all Meetings of the whole Court. In the Absence of the President of either Division, the Senior Judge present shall preside in that Division. Three Judges are and shall be a Quorum in either Division; and, in future, Seven Judges shall be a Quorum of the whole Court, as well for hearing and determining Causes as for the Enactment of Acts of Sederunt and other Business.

In certain Cases One of the Outer House Judges may be called in to form a Quorum in the Inner House.

259. Where, by reason of Death, Resignation, Indisposition, legal Declinature, or necessary Absence, the Number of Judges of either Division able to attend is reduced to less than a Quorum of Three, in any such Case it shall be competent for the remaining Judges to call in One or more of the Judges officiating in the Outer House, beginning with the Senior, which Judge or Judges so called in shall adjudicate in all Causes brought before them in such Division as if he or they were Members of such Division.

Provision in case of temporary Vacancy in the Bill Chamber.

260. In case of the Death, Resignation, Indisposition, or necessary Absence of the Lord Ordinary officiating in the Bill Chamber during Session, it shall be lawful for the whole Court or a Quorum thereof to appoint another Judge to act for him, or to appoint the other Four Lords Ordinaries to officiate in rotation in the Bill Chamber until he shall again officiate, or until another Judge shall officiate in the regular Rotation.

In case of Emergency any Judge may act in Absence of Bill Chamber Judge.

261. In case of the Death, Resignation, Indisposition, necessary Absence, or legal Declinature of the Lord Ordinary officiating in the Bill Chamber during the Period of the Session, but at a Time when the Court is not actually sitting, any Judge of the Court of Session, on a due Statement by any of the Clerks of the Bill Chamber of such Fact, and of some Urgency in the Case, shall and may pronounce on any Bill which may in such Case be laid before him such Interlocutor as Circumstances may require.

Motion of Roll of Lord Ordinary may be taken up by another Judge.

262. In case of the Death, Resignation, Indisposition, or necessary Absence (as in conducting a Trial or Proof) of any Lord Ordinary officiating in the Outer House, it shall be lawful for any other Judge, upon the verbal Requisition of the Lord President, to take up the Motion Roll of such Lord Ordinary; and in case of Indisposition or

temporary Absence any Judge may take up the Motion Roll of such Lord Ordinary, at his Request; and this Provision shall apply to Teind and Exchequer Causes.

Provision for certain Cases of Declinature.

263. In case of the legal Declinature of any Lord Ordinary, the President of the Division of the Court in which the Cause depends may remit the Cause to any other Lord Ordinary, and for that Purpose the Process may be laid before the Lord President or the Lord Justice Clerk, as the Case may be, at Chambers, without any Report or Enrolment.

Admission of Judges of the Court of Session regulated.

264. It shall not be necessary for the Court of Session to require any Ordinary Judge who may hereafter be appointed by Her Majesty, Her Heirs or Successors, to undergo the customary Trials prior to his Admission, but any such Judge possessing the Qualification required by the Treaty of Union may, on Presentation of his Commission under Her Majesty's Sign Manual, be immediately admitted to sit as a Judge of the said Court, in like Manner as the Presidents of the Two Divisions of the Court are admitted.

Lord President may transfer Causes.

265. It shall be lawful for the Lord President of the Court of Session, from Time to Time as it shall appear to him to be necessary or expedient, with a view to promote the due Despatch of the Business of the Court, to transfer Causes from one Division of the Court to the other, and from any one Lord Ordinary to any other Lord Ordinary, to such an Extent as he shall judge to be necessary or expedient for the Purpose of promoting Despatch and preventing Delay; and to enable the said Lord President to exercise such Power, it shall be lawful for him to require the Keepers of the Rolls of the respective Divisions, the Principal and Depute Clerks of Session, and the Clerks of the several Lords Ordinary, or of any of them, to transmit to him from Time to Time as he shall direct Lists of the whole Causes depending before such Divisions respectively and the several Lords Ordinaries, and also to attend upon him from Time to Time, and give such Information in regard to such Lists and the State of the Business generally as he may require.

Form of such Transference.

266. When the Lord President shall at any Time Judge it necessary to transfer Causes from the one Division to the other, or from any one Lord Ordinary to any other Lord Ordinary, under the Power hereby given, he shall require to be prepared a List or Lists of the Causes transferred; and every such List shall have a Title specifying the Division from which or the Lord Ordinary from whom, and also the Division to which and the Lord Ordinary to whom the Transference is made, and bearing that such Transference is made by

by the Lord President under the Authority of this Act; and every such List shall be dated and subscribed at the End thereof by the said Lord President, and shall be effectual to operate a Transference of the Causes therein contained in Terms of the Title thereof, and the Causes shall thereafter be held to depend before the Division to which or the Lord Ordinary to whom the Transference is made, in the same Manner and to the same Effect in all respects as if such Causes had originally depended before such Division or Lord Ordinary; and it shall be sufficient that the Causes shall be entered in the said Lists in the same Manner in which Causes are in use to be entered in the Long Rolls of the Divisions or the Debate Rolls of the Lords Ordinaries: Provided always, that all Causes so transferred shall be taken from the Causes last enrolled in the Order of their Enrolment, unless from Connexion with any depending Action or other similar Reason it may appear proper not to transfer any particular Cause.

List of transferred Causes to be published.

267. Every List of Causes transferred by the Lord President as aforesaid shall be entered in the Books of Sederunt, and shall be forthwith printed and published on the Walls of the Court, and shall also be published in the Minute Book.

Lord President to remit Causes to newly appointed Judge.

268. When any Vacancy shall occur in the Outer House by the Death or Resignation of any of the Lords Ordinary, or by such Lord Ordinary taking his Seat as a Judge in the Inner House, the Lord President of the Court of Session shall and may, by a General Order or Minute entered in the Books of Sederunt, and signed by him, remit all Causes formerly depending before such Lord Ordinary to the Junior or newly appointed Judge in the Outer House.

Remits ob contingentiam regulated.

269. Where any Action or Proceeding has been brought before One of the Divisions or Lords Ordinaries, the other Division or any of the other Lords Ordinaries shall remit any Action or Proceeding subsequently brought before them relating to the same Subject, Matter, or Thing, or having a Connexion or Contingency therewith, to the Division or Lord Ordinary before whom the First Action or Proceeding had been previously brought; and it shall be lawful for One of the Divisions of the Court to remit a Cause to the other Division, or for One Lord Ordinary to remit a Cause to another Lord Ordinary, of Consent of all the Parties, which Consent shall be given by a joint Minute or Note.

Sittings of the Court regulated.

270. The ordinary Sittings of the Court, both Inner and Outer Houses, shall henceforward be as follows; viz., the Summer Session shall in each Year commence on the first lawful Day (Monday

excepted) which shall happen next after the Eleventh Day of May, and shall end on the Twentieth Day of July, or when that Day shall fall upon Sunday or Monday on the Saturday immediately preceding; and the Winter Session shall in each Year commence on the first lawful Day (Monday excepted) which shall happen next after the Day of , and shall end on the Twentieth Day of March, or when that Day shall fall upon Sunday or Monday on the Saturday immediately preceding; and it shall not be lawful for the said Court to make an Adjournment at the Christmas Recess for a longer Period than Days.

PART XII.

Appeals to the House of Lords.

And with respect to the Review of Judgments of the Court of Session by Appeal to the House of Lords, be it enacted as follows:

Appeals from Interlocutors of Lords Ordinaries shall not be received.

271. It shall not be lawful for the House of Lords to receive an Appeal from any Interlocutor or Decree pronounced by any Lord Ordinary in the Court of Session: Provided, that in reviewing any Interlocutor or Decree pronounced by the Court of Session in one of its Divisions, whether in its ordinary Jurisdiction, or sitting as a Court of Review in the Bill Chamber, or as the Court of Commissioners for Teinds, or as the Court of Exchequer in Scotland, it shall be lawful for the House of Lords to pronounce such Judgment as the Court of Session ought to have pronounced, and in so doing to recal or alter any Interlocutor of the Lord Ordinary which ought to have been recalled or altered by the said Court.

Incompetent to appeal from an Interlocutor allowing a Proof, unless it disposes of other Matters.

272. It shall not be competent to appeal to the House of Lords from any Interlocutor whereby a Trial by Jury, or before the Lord Ordinary, or a Proof before One of the Examiners of Court, is allowed, whether such Trial or Proof relate to the whole or Part of a Cause, or from any Interlocutor whereby the Cause or Part thereof is remitted to such Examiner or to an Accountant or other Person for Investigation, or to appeal from any Interlocutor granting a Diligence, or granting Commission to examine Witnesses in Cases where the Court has a discretionary Power of granting Commission for that Purpose: Provided always, that where any such Order or Allowance of Proof by Jury Trial or otherwise is contained in an Interlocutor deciding any Question which may competently be made the Subject of Appeal, it shall be lawful for the Party decided against to appeal from the whole of such Interlocutor immediately, if the Court, in its Discretion, think fit

fit that an Appeal should be allowed: Provided also, that in the event of an Appeal being competently presented against any subsequent Interlocutor it shall be lawful for the Party against whom such first-mentioned Interlocutor has been pronounced to bring the same under the Review of the House of Lords along with any such subsequent Interlocutor or by Cross Appeal.

Appeals from Interlocutors consequent on Jury Trial regulated.

273. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused or when granted being discharged or made absolute, as the Case may be, or provided the Court in its Discretion think fit that an Appeal should be allowed, but if otherwise the Decision of the Court shall be final: Provided that where the Application for a new Trial is on Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, such Appeal shall not be competent.

Appeals from Judgments upon Special Verdict, &c.

274. It shall be competent to appeal immediately from a Judgment on a Special Verdict, from a Judgment on a Special Case settled at a Trial, from a Judgment on an Application to enter a Verdict or Judgment on a Point reserved at Trial, from a Judgment on a Motion to enter Judgment in favour of a Party against whom a Verdict has been returned on Matter of Law arising on the Record, from a Judgment on a Bill of Exceptions, and from a Judgment applying a Verdict, although in any of the Cases herein mentioned the Judgment appealed from may not exhaust the whole Merits of the Cause.

Judgment on Appeals from Inferior Courts to specify the Facts established by Proof; and such Findings in Fact not to be subject to Review by the House of Lords.

275. Where a Judgment pronounced in any Inferior Court disposing of any Matter of Fact on which Proof has been allowed and taken shall be brought under the Review of the Court of Session, by Appeal, Suspension, or otherwise, the Court of Session shall, in reviewing the Judgment proceeding on such Proof, distinctly specify in their Interlocutor the several Facts material to the Case which they find to be established by the Proof, or by any additional Proof which shall have been taken on the Court of Session, and shall express how far their Judgment proceeds on the Matter of Fact so found, or on Matter of Law, and the several Points of Law which they mean to decide; and the Judgment on the Cause thus pronounced shall be subject to Appeal to the House of Lords in so far only as the same depends on or is affected by Matter of Law, but shall, in so far as relates to the Facts, be held to have the Force and

Effect of a Special Verdict of a Jury finally and conclusively fixing the several Facts specified in the Interlocutor.

General Provisions with respect to final and interlocutory Judgments.

276. Wth respect to Interlocutors and Decrees other than such as are herein-before specified: It shall not be competent to appeal from interlocutory Judgments, but such Appeals shall be allowed only from Judgments or Decrees on the whole Merits of the Cause, unless the Court, in its Discretion, think fit that an Appeal should be allowed, or unless One of the Judges shall dissent from such Interlocutory Judgment: Provided, that in the event of an Appeal being competently presented against any Decree or Judgment, it shall be lawful for either Party at the same Time to appeal to the House of Lords from any such interlocutory Judgment.

Application may be made for Leave to appeal on the Ground of Difference of Opinion.

277. In all Cases in which any of the Parties shall desire to appeal from an interlocutory Judgment of the Court of Session on the Ground that One of the Judges has dissented from such interlocutory Judgment, the Party desiring to appeal from such Judgment shall apply by Petition to the Court for Leave to appeal; and if any of the Judges shall have dissented from the Judgment, Leave shall be granted on that Ground; and the Interlocutor granting or refusing Leave to appeal on that Ground shall in any Question as to the Competency of such Appeal be conclusive Evidence on the Question whether there was an ultimate Difference of Opinion among the Judges with respect to such Judgment.

House of Lords may give Precedence to certain Appeals.

278. It shall be lawful for the House of Lords by Standing Order from Time to Time to direct that any particular Class of Appeals from the Court of Session shall have Priority over other Appeals from the said Court in the List of Appeals set down for Hearing.

Limitation as to Time for presenting Appeal

279. Judgments, Decrees, and Orders of the Court of Session are and shall be final, and not subject to be complained of by Appeal to the House of Lords, unless the Petition of Appeal shall be lodged with the Clerk of the Parliaments or the Clerk Assistant within One Year from the Date of signing the last Interlocutor appealed from, or before the End of Fourteen Days to be accounted from and after the First Day of the Session or Meeting of Parliament for the Despatch of public Business next ensuing the said Period of One Year: Provided, that when the Person entitled to appeal shall be out of the Kingdom of Great Britain and Ireland it shall be competent for him to enter an Appeal at any Time within Two Years from the Date of the last Interlocutor, if he shall remain abroad so long, or within One Year from the Time of coming into Great Britain or Ireland, the Time allowed to such Person for lodging his Appeal in no Case on account of mere Absence exceeding the foresaid Space of Two Years,

Years, together with the Space that may elapse before the End of the Fourteenth Day from and after the Meeting of the Session of Parliament next after the Expiration of the said Two Years; and in case the Person so entitled to appeal shall be under the Age of Twenty-one Years, or non compos mentis, it shall be competent for him or his Heirs or Representatives, where no Appeal had been previously entered on this Behalf, to enter an Appeal at any Time within One Year after full Age or coming of sound Mind, or after the Death of the Person so disqualified, and the opening of the Succession to the Heir, or before the End of Fourteen Days after the First Day of the Session or Meeting of Parliament next ensuing the said Period of One Year.

Limitation as to Time for presenting Appeals on Exceptions or Motions for new Trial.

280. Appeals to the House of Lords from Judgments on Bills of Exceptions, or on Motion for a new Trial (where Appeal on such Motion is allowed by this Act), shall be presented to the House within Fourteen Days after the Interlocutor has been pronounced, if Parliament shall be then sitting, or if Parliament shall not be then sitting, then within Eight Days after the Commencement of the next Session of Parliament, but not afterwards; and every such Appeal shall be appointed to be heard on or before the Fourth Cause Day after the Time limited for laying the printed Cases in such Appeal on the Table of the House of Lords; and on the Hearing of such Appeal the House of Lords may, if they allow the Exception, direct a new Trial to be had.

Certified Copy of Record, &c. to be laid before the House.

281. When any Cause shall be carried by Appeal to the House of Lords the Appellant shall lay before the House a Copy, certified as authentic by the Signature of One of the Principal Clerks of Session, or of One of the Assistants of the said Clerks, for whom the Principal Clerk shall be responsible, of the whole of the Record in the Court of Session or Inferior Court, as the Case may be, including any Minute of Amendment or other Minute or Pleading allowed to be lodged subsequent to the Completion of the Record; and the Cases which are delivered to the House of Lords shall continue to be framed in conformity with the existing Practice, unless the House of Lords by any Standing Order shall otherwise direct: Provided that the Appellant shall present to the House of Lords as Part of his printed Case, or as an Appendix thereto, a Copy of the Record and other Papers aforesaid, as certified by the said Clerk.

Regulation as to Interim Possession, &c.

282. When any Appeal is lodged in the House of Lords a Copy of the Petition of Appeal shall be laid by the Respondent before the Judges of the Division to which the Cause belongs;

and the said Division, or any Three of the Judges thereof, shall have Power to regulate all Matters relative to Interim Possession or Execution, or Payment of Expenses already incurred, according to their Discretion, having a just Regard to the Interests of the Parties as they may be affected by the Affirmance or Reversal of the Judgment or Decree appealed from.

Such Regulations not to be subject to the Review of the House ad interim.

283. It shall not be competent by Appeal to the House of Lords to stop the Execution of the Regulations so made as to Interim Possession, Execution, or Payment of Expenses: Provided that when the Appeal touching the Judgment or Decree appealed from shall be heard it shall be competent for the House of Lords to make such Order and give such Judgment respecting all Matters whatsoever which shall have been done or have taken place in pursuance of or in consequence of such Regulations as to Interim Possession, Execution, or Payment of Expenses, as the Justice of the Case shall appear to the House of Lords to require.

House of Lords may adjudge the Payment of Simple or Compound Interest.

284. If on hearing the Appeal it shall appear to the House of Lords to be just to decree or adjudge the Payment of Interest, simple or compound, by any of the Parties in the Cause to which such Appeal relates, it shall be competent to the said House to decree or adjudge the Payment thereof, as the said House in their Discretion shall think fit.

Respondents in Appeals dismissed may apply for Interest to the Division to which the Cause belongs.

285. Where any Appeal presented to the House of Lords against an Interlocutor or Decree of the Court of Session shall be dismissed for Want of Prosecution, it shall be lawful for any Respondent in such Appeal to apply by Petition to that Division of the Court of Session to which such Cause shall belong; and it shall be competent to the Judges of the said Division, upon such Petition, to decree Payment of Interest, simple or compound, by the Appellant to such Respondent, in such Manner as the said Division in their Discretion shall think fit, together with the Expenses which have been incurred in consequence of such Appeal.

House of Lords may require the Opinions of the Judges of the Court of Session upon Questions of Law.

286. It shall be lawful for the House of Lords, in remitting to the Court of Session any Cause which is now or shall hereafter come before the said House by Appeal from the Court of Session, to instruct the Division of the Court of Session to which the Cause is remitted to order and direct the whole or any Part of such Cause to be tried by Jury, or to order and direct a Proof to be taken on the whole or any Part of such Cause in any other Manner consistent with the Practice of the said Court; and it shall be lawful for the House of Lords

Lords in remitting any Cause as aforesaid to instruct the said Division to direct any such Questions as the House may think fit to state to be argued before the whole Court, and to require the Judges to report their Opinions thereon; and every such Hearing shall take place in Presence of all the Judges: Provided that, notwithstanding the Death or Resignation of any Judge present at such Hearing, it shall be lawful to report to the House of Lords the Opinions of such of the Judges present at the Hearing as shall be Members of the Court at the Time of such Report.

Judicial Procedure in Teind Causes.

287. All Actions for the Valuation or Sale of Teinds, all Actions of Suspension or Reduction of Localities, and all Actions of Declarator or Reduction connected with Teinds, shall be instituted by a Summons and Bill under this Act, and shall be subject to Adjudication by the Lord Ordinary in Teind Causes in the first instance, whose Decision shall be subject to Review by One of the Divisions of the Court (to be noted on the Summons) in the same Manner as the Decision of a Lord Ordinary in any ordinary Action; and all Actions of proving the Tenor of Valuations or Sales of Teinds may be instituted in the Form of a Summary Petition in the Inner House in manner herein-before provided with respect to other Actions of proving the Tenor; and the said Lord Ordinary and the said Division shall and may in all such Cases exercise the Powers of the Lords Commissioners for Plantation of Kirks and Valuation of Teinds.

Saving of Teind and Exchequer Jurisdiction and Forms of Procedure.

288. Except as herein-before expressly provided, nothing in this Act contained shall be held to alter or affect the Jurisdiction of the Court, or the Forms of Procedure in Teind and Exchequer Causes in Scotland, as now established; but it shall be lawful for the Court of Session, and the said Court is hereby empowered, from Time to Time, to direct by Act or Acts of Sederunt, that any of the Provisions of this Act shall and may be made applicable to Teind Causes or to Exchequer Causes; and all such Directions shall take effect from the Time therein mentioned.

Interpretation of Terms.

289. The Words "Pursuer" and "Defender," when used in this Act in connexion with Provisions which in their Substance are applicable to Bill Chamber Proceedings, shall be taken to include Complainers and Respondents, and when used in Provisions applicable to all Actions and Proceedings shall also include Petitioner and Respondent.

Authority to Court of Session to pass Act of Sederunt.

290. The Court of Session shall be and the said Court is hereby empowered, from Time to Time, from and after the passing of this

Act, to make such Regulations by Act or Acts of Sederunt as the said Court may deem meet for carrying into effect the Purposes of this Act, and also to repeal or consolidate the Provisions of such of the Acts of Sederunt now in force as have Relation to the Practice of the said Court, and to issue such abridged Forms of Pleadings and Writs under this Act as they may approve; and for that Purpose the said Court may meet during Vacation as well as during Session, and may alter and amend such Regulations and Forms from Time to Time: Provided always, that every such Act of Sederunt shall within One Month after the Date thereof be transmitted by the Lord President of the Court of Session to One of Her Majesty's Principal Secretaries of State, to the end that the same may be laid before both Houses of Parliament.

Commencement of this Act.

291. Excepting in so far as regards the Power herein-before given to the Court of Session to pass Acts of Sederunt, this Act shall commence and take effect from and after the First Day of November One thousand eight hundred and sixty-four: Provided, that it shall be lawful in any Cause depending on the said First Day of November, in which a Record has not then been completed, to make up a Record according to the existing Practice; and all Causes depending on the said First Day of November in which the Record has been already closed shall thenceforth, and all other Causes depending at the said Date shall as soon as a Record has been made up and closed, be conducted and prosecuted to a Conclusion as nearly as may be according to the Forms and Regulations in this Act provided with respect to Causes of the same Description.

Short Title.

292. This Act may be cited for all Purposes as "The Court of Session (Scotland) Act, 1863."

SCHE-

SCHEDULES to this Act annexed.

SCHEDULE (A.)

No. 1.

FORM OF SUMMONS.

[*First*] Division. Lord , Ordinary.

VICTORIA, *&c.*

To *C.D.* [*Name and Designation of Defender.*] (*a.*)

We command you, that within Eight Days, or, if in Orkney or Shetland or Furth of Scotland, within Twenty-five Days after Service of this Summons on you, inclusive of the Day of such Service, you do cause Appearance to be entered for you, in an Action in the Court of Session at the Instance of *A.B.* (*b.*) [*Name and Designation of Pursuer*] (*c.*); and take notice, that in default of your so doing the said *A.B.* may proceed therein to Judgment and Execution. Given under our Signet, at Edinburgh.

[*Date.*]

To be signed by a Writer to the Signet.

(*a.*) *If desired, the Character in which the Defender is sued may be added.*

(*b.*) *In Action of Reduction add, "and also that you cause to be exhibited and "produced before the Court of Session the Writings which the Pursuer seeks to "have reduced and set aside."*

(*c.*) *Specify Character, if desired.*

No. 2.

And we charge Messengers-at-Arms, and others, our Sheriffs, in that Part, lawfully to arrest in Security the Goods, Effects, Debts, and Sums of Money belonging to the Defender.

No. 3.

And we charge Messengers-at-Arms, and others, our Sheriffs in that Part, also lawfully to inhibit and discharge our Lieges, and all others from buying, taking, or receiving any of the Defender's Lands and Heritages, or any Dispositions, Assignations, or other Rights and Securities thereto, to the Prejudice of the Pursuer.

No. 4.

Served upon you the within-named [*specify Name*], this [*Date*] in Presence of *X. Y.*, by the undersigned a [*Messenger-at-Arms.*]

[*To be signed by the Officer.*]

SCHEDULE (B.)

Forms of Bills.

No. 1.

Payment of a Legacy or Share of Succession.

Unto the Right Honourable the Lords of Council and Session.

Bill for *A.B.*, Pursuer.

May it please your Lordships to find and declare that the Share or Interest in the Testamentary Estate of *F.*, conceived in favour of the Pursuer by a Testament executed by the said *F.* on the Day of was a vested Interest in the Person of the Pursuer at the Death of the said *F.*, and that the same amounts to One Fifth of the free Moveable Estate of the said *F.*, and also to decern and ordain the said *C.*, *D.*, and *E.*, Executors foresaid, to make Payment to the Pursuer of the Sum of *l.*, or such other Sum as may be ascertained to be the Amount or Value of his Share and Interest as aforesaid, with Interest thereon from the Term of Martinmas 18 , as directed in the said Testament, and to find the Pursuer entitled to Expenses from the said Testamentary Estate, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

To be signed by a Writer to the Signet.

No. 2.

Declarator and Removing.

Unto, *&c.*

May it please your Lordships to find and declare that a Piece of Ground, consisting of Acres [*describe the Subjects in dispute*], taken possession of by the said *E.*, Defender, is a Part and Portion of all and whole the Lands and Barony of of which the Pursuer is Proprietor, and that the same pertains heritably in Property to the Pursuer in virtue of [*specify the last Disposition and Sasine or registered Writ*], and his other Rights and Titles, and also to decern and ordain the said *E.* [*insert Conclusion for Removing or other necessary Decerniture*], and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

No. 3.

Accounting and Payment.

Unto, *&c.*

May it please your Lordships to ordain the Defender to exhibit and produce before your Lordships a full and particular Account

Account of his whole Intromissions as Factor for the Pursuer [*or otherwise; as the Case may be*], whereby the true Balance due by him to the Pursuer may be ascertained; and also to decern the said Defender to make Payment to the Pursuer of the Sum of *l.* or of such other Sum as may be ascertained to be due by the Defender as the Balance of his said Intromissions, with Interest on the said Account from the Day of until Payment; or, in the event of the Defender failing to produce an Account as aforesaid, to decern and ordain the said Defender to make Payment to the Pursuer of the Sum of *l.* or such other Sum as shall be ascertained to be due upon an Inquiry before your Lordships, and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

No. 4.

Complaint and Interdict.

Unto, *&c.*

May it please your Lordships to decern and ordain the Defender to deliver to the Pursuer the Goods forming the Cargo of the Ship *I.*, to which he is entitled as Indorsee and Holder for Value of a Bill of Lading, dated the Day of , granted by the Defender in favor of and his Assignees; and in the meantime to interdict, prohibit, and discharge the said Defender from giving Delivery of the said Goods to any other Person than the Pursuer, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

No. 5.

Reduction and Declarator.

Unto, *&c.*

May it please your Lordships to reduce and set aside a Disposition and Settlement executed by *C.D.* in favour of the Defender, dated the Day of contrary to the Statute 1696, Cap. 5. [*or* as being false and forged. *It shall not be imperative to refer to any Statute or other Head of Reduction except Forgery*]; and to find and declare the same to have been and to be null and void; and also to find and declare that the Pursuer, as Trustee aforesaid, is, in virtue of "The Bankruptcy (Scotland) Act, 1856," vest in all and whole the several Rights and Securities pre-

tended to be conveyed by the said Disposition, viz^{t}.
absolutely and irredeemably, and to find the Pursuer entitled to Expenses, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

No. 6.

Bill of Divorce.

Unto, *&c.*

May it therefore please your Lordships to find Facts and Circumstances proven relevant to infer the Defender's Guilt of Adultery with and therefore to find her guilty of Adultery accordingly, and to dissolve the Marriage between the Pursuer and the said Defender, and also to find and declare that the Defender has forfeited all the Rights and Privileges of a lawful Spouse.

According to Justice, *&c.*

No. 7.

Bill of Multiplepoinding.

Unto, *&c.*

Bill for *A.B.*, Pursuer and real Raiser, [*or*, the Action being raised in his Name by *E.F.*]

May it please your Lordships to find and declare that the said Pursuer is only liable in once and single Payment of the Principal Sum of *l.* contained in a Bond granted by him to *G.H.*, his Heirs, Executors, and Assignees, and dated the Day of with Interest thereon from until Payment, or until Consignation in this Process; and also to ordain the several Defenders, and all others pretending Right thereto, to produce their respective Claims, to the end that the said Fund and Interest may be lawfully distributed; and to find the Pursuer entitled to his Expenses out of the said Fund, or to grant such other Relief as to your Lordships shall seem proper.

According to Justice, *&c.*

No. 8.

Cross Bill.

Unto, *&c.*

Cross Bill for *C.D.* of Defender and Claimant in the Action of at the Instance of *A.B.* of , now depending before Lord , Ordinary.

May it please your Lordships to find and declare that the Claimant is entitled under the Testament of the deceased *I.R.* of made and

and executed the Day of , to a Liferent of One Third of the free Moveable Estate of which the said *I.R.* died possessed, being an Interest in the Fund claimed by the Pursuer adverse to the Interest of the Pursuer.

According to Justice, *&c.*

Here follows the Condescendence.

SCHEDULE (C.)

Form of Special Indorsement.

[*After the Indorsement required by the Sixth Section of this Act this special Indorsement may be inserted.*]

The following are the Particulars of the Pursuer's Claim:

		£	*s.*	*d.*
1849.	June 20. Half Year's Rent to this Day of House and Premises in Street Edinburgh - - - - -	25	10	0
	Sept. 12. Ten Sacks of Flour at 40*s.* -	20	0	0
	Dec. 1. Money received by Defender -	17	0	0
		62	10	0
	Paid - - -	15	0	0
	Balance due - -	£47	10	0

or

To Butcher's Meat supplied between the 1st of January 1849 and the 1st of January 1850 - - -		52	0	0
	Paid - - - - -	20	0	0
	Balance - - -	£32	0	0

[*If any Account has been delivered it may be referred to by its Date, or the Pursuer may give such other Description of the Debt as in a Condescendence, but without setting forth the Particulars of the Contract or Obligation; as, for example:*]

50*l.* Principal, and *l.* Interest thereon, due on a Bond and Disposition in Security, dated the Day of for the Sum of *l.*

or

90*l.* Principal, and *l.* Interest thereon, due for Freight on the

Obligation contained in a Charter Party, dated the Day of to pay 500*l.* and Interest.

or

Penalties to the Amount of 100*l.* under the Statute 17 & 18 Vict. c. 102. s. 9.

or

85*l.* on a Bill of Exchange for 100*l.*, dated the 2d February 1849, accepted, *or* drawn, *or* indorsed by the Defender.

or

50*l.* on a Guarantee, dated the 1st of January 1860, whereby the Defender guaranted the due Payment by *E.F.* of Goods supplied or to be supplied to him to the Amount of *l.*; viz.,

[*Here describe the Account, as in the Example previously given.*]

[*To any of the above may be added, in Cases where Interest is payable*, The Pursuer also claims Interest on *l.* of the above Sum from the Date of the Summons until Judgment.]

SCHEDULE (D.)

Forms of Pleadings.

STATEMENTS OF CAUSES OF ACTION.

On Contracts.

Money payable by the Defender to the Pursuer, for—

1. Goods sold and delivered by the Pursuer to the Defender; viz.
2. Work done and Materials provided by the Pursuer for the Defender, at his Request; viz.
3. Money lent by the Pursuer to the Defender; viz.
4. Money paid by the Pursuer for the Defender at his Request; viz.
5. Money received by the Defender for the Use of the Pursuer; viz.
6. Money found to be due by the Defender to the Pursuer on Account stated between them; viz.
7. Lands and Heritages sold and conveyed by the Pursuer to the Defender; viz.
8. The Goodwill of a Business of the Pursuer sold and transferred by the Pursuer to the Defender; viz.
9. Rent due for the Defender's Occupation of a House and Garden, the Property of the Pursuer; viz.
10. Rent

10. Rent due for the Defender's Use of a Fishery and Shootings, the Property of the Pursuer; viz.
11. Feu Duties payable by the Defender for a House and Land, being Part of the Estate of , of which the Pursuer is Superior; viz.
12. The Hire of [*as the Case may be*] by the Pursuer lent to the Defender; viz.
13. Freight for the Conveyance by the Pursuer for the Defender, at his Request, of certain Goods in Ships; viz.
14. The Demurrage of a Ship of the Pursuer kept on Demurrage by the Defender.
15. That the Defender on the Day of by his Promissory Note, now over due, promised to pay to the Pursuer *l.* Two Months after Date, but did not pay the same.
16. That *A.B.*, &c. on [*Date*] by his Promissory Note, now over due, promised to pay to the Defender or Order *l.* Two Months after Date, and the Defender indorsed the same to the Pursuer, and the said Note was duly presented for Payment, and was dishonored, whereof the Defender had due Notice, but did not pay the same.
17. That the Pursuer on [*Date*] by his Bill of Exchange, now over due, directed to the Defender, required the Defender to pay to the Pursuer *l.* Two Months after Date, and the Defender accepted the said Bill, but did not pay the same.
18. That the Defender on [*Date*] by his Bill of Exchange directed to *A.* required *A.* to pay to the Pursuer *l.* Two Months after Date, and the said Bill was duly presented for Acceptance, and was dishonored, of which the Defender had due Notice, but did not pay the same.
19. That the Pursuer and Defender agreed to marry one another, and a reasonable Time for such Marriage has elapsed, and the Pursuer has always been ready and willing to marry the Defender, yet the Defender has refused and neglected to marry the Pursuer.
20. That the Pursuer and Defender agreed to marry one another on a Day now elapsed, and the Pursuer was ready and willing to marry the Defender on that Day, yet the Defender refused and neglected to marry the Pursuer.
21. That the Defender, by warranting a Horse to be sound and quiet to ride, sold the said Horse to the Pursuer, yet the said Horse was not sound and quiet to ride.

22. That the Pursuer and Defender agreed by Charter Party that the Pursuer's Ship called the "Ariel" should with all convenient Speed sail to R , or so near thereto as she could safely get, and that the Defender should there load her with a full Cargo of Tallow or other lawful Merchandise, which she should carry to H , and there deliver on Payment of Freight *l.* per Ton, and that the Defender should be allowed Ten Days for loading, and Ten Days for Discharge, and Ten Days for Demurrage, if required, at *l.* per Day; and that the Pursuer did all Things necessary on his Part to entitle him to have the said Cargo loaded on board the said Ship at R , and that the Time for so doing has elapsed, yet the Defender made default in loading the agreed Cargo.

23. That the Pursuer let to the Defender a House No. , Queen Street, Edinburgh, for Three Years from the Term of Whitsunday at *l.* a Year, payable Half-yearly, of which Rent *l.* Half-yearly Instalments are due and unpaid.

24. That the Pursuer, by a Lease dated let to the Defender the Farm of for Nineteen Years from the Term of Martinmas , and the Defender by the said Lease agreed to expend the Sum of *l.* in putting the House and Offices in good and substantial Repair, and in making necessary Additions thereto, and that within the Period of from the Date of said Lease; that the said Period has elapsed, and the Defender has failed to perform his Agreement as aforesaid.

For Wrongs independent of Contract.

25. That the Defender has violently taken possession of a Piece of Ground called , being Part of the Pursuer's Estate of .

26. That the Defender assaulted the Pursuer, gave him into Custody to a Policeman, and caused him to be imprisoned in a Police Office.

27. That the Defender seduced and had carnal Intercourse with the Pursuer's Wife.

28. That the Defender converted to his own Use, or wrongfully deprived the Pursuer of the Use and Possession, of certain Goods the Property of the Pursuer; viz.

29. That the Defender was employed by the Pursuer to prepare a Security in his Favour for the Sum of *l.* over the Lands

Lands and Estate of in the County of Perth, and that in consequence of the Defender's Negligence or Want of Skill the Deed prepared by him was not effectual as a Security to the Pursuer, whereby the Defender has sustained Loss to the Extent of *l.*

30. That the Pursuer was possessed of a Mill as Lessee [*or* Proprietor] called in the Parish of and County of , and in virtue of his Writs and Titles was entitled to the Use of a Stream for working the same, and the Defender by cutting the Bank of the said Stream diverted the Water thereof away from the said Mill.

31. That the Pursuer was the First and true Inventor of a certain new Manufacture, viz., of "certain Improvements in the Manufacture of Sulphuric Acid," and thereupon Her Majesty, by Letters Patent under the Seal appointed by the Treaty of Union to be used in Scotland in place of the Great Seal thereof, granted the Pursuer the sole Privilege to make, use, exercise, and vend the said Invention within Scotland for the Term of Fourteen Years from the Day of , subject to a Condition that the Pursuer should within Six Calendar Months next after the Date of the said Letters Patent cause to be enrolled in Her Majesty's High Court of Chancery an Instrument in Writing under his Hand and Seal particularly describing and ascertaining the Nature of his said Invention, and in what Manner the same was to be and might be performed; that the Pursuer did within the Time described fulfil the said Condition; and the Defender during the said Term did infringe the said Patent Right.

32. That the Defender falsely and calumniously spoke and published of the Pursuer the Words following; viz., "He is a Thief."

[*If there be any special Damage here state it, with such reasonable Particularity as to give Notice to the Defender of the peculiar Injury complained of, for instance*]

whereby the Pursuer lost his Situation as Gamekeeper in the Employment of *A.*

33. That the Defender falsely and calumniously printed and published of the Pursuer in a Newspaper called "" the Words following; viz.,

the Defender meaning thereby that [*as the Case may be*].

Defender's Pleas in Actions on Contracts.

As to the First [*or, as the Case may be,*] Article of the Condescendence:

1. That the Defender never was lent the Money as alleged.
2. That the Defender did not accept the said Bill as alleged.
3. That the Defender never executed the alleged Deed.
4. That the alleged Cause of Action is prescribed in virtue of the Statute , Chapter .
5. That before Action the Defender discharged the Pursuer's Claim by Payment of the said Sum of *l.*, conform to the Pursuer's Receipt herewith produced.
6. That the Pursuer, at the Commencement of the Action, was and still is indebted to the Defender in an Amount equal to the Pursuer's Claim for [*here state the Cause of Set-off, as in the preceding Examples of Causes of Action*], which Amount the Defender is willing to set off against the Pursuer's Claim.
7. That before Action the Pursuer, by Deed of Discharge dated , discharged the Defender from Liability in respect of the alleged Claim.

Defender's Pleas in Actions for Wrongs independent of Contract.

8. That the Defender did not assault the Pursuer, as alleged.

8. That the Defender at the Time of the alleged Trespass was possessed of the adjoining Lands of the Proprietors whereof were entitled to a Servitude of Pasturage over the said Land of the Pursuer, and that the alleged Trespass was a Use by the Defender of his said Servitude of Pasturage.

10. That the Defender was not the Author of the Words complained of printed and published in the said Newspaper.
11. That the Words complained of were not used in the Sense attributed to them by the Pursuer, but meant only that the Pursuer [*as the Case may be*], and that in that Sense they were true.

Replications.

The Pursuer denies the 1st, 2d, &c. Defences.

As to the [*Second*] Defence—

1. That the alleged Discharge was procured by the Fraud of the Defender in the following Circumstances; viz.

1. That

2. That the alleged Set-off is prescribed under the Statute Cap.
3. That the Pursuer sues, not for the Acts admitted and defended, but for certain other Acts committed by the Defender in excess of his said alleged Right, and which are sufficiently specified in the Condescendence.

SCHEDULE (E.)

FORM OF EXECUTION OF SERVICE OR INTIMATION.

This Summons, [*or* Note of Suspension, *or* of Suspension and Interdict, *&c.*, *or* Petition,] executed [*or* intimated] by me [*insert Name*], [Messenger-at-Arms,] against [*or* to] [*insert Name or Names*], Defender [*or* Defenders, *or* Respondent *or* Respondents] [*state whether personally or otherwise*], in Presence of [*insert Name and Designation of Witness*] this Day of Eighteen hundred and Years.

[*Signature of Messenger.*]

C.D., Witness.

SCHEDULE (F.)

FORM OF RECLAIMING NOTE.

Unto the Right Honourable the Lords of Council and Session.

Reclaiming Note for *A.B.*, residing in Defender in the Action, at the Instance of *C.D.*, residing in against him.

November 1863. In this Action, Lord Ordinary, was, of this Date, pleased to pronounce the prefixed Interlocutor, which, together with the other Interlocutors in the Cause, is submitted to the Review of the Court.

According to Justice, *&c.*

[*To be signed by Counsel.*]

Court of Session (Scotland)

A

BILL

[AS AMENDED IN COMMITTEE]

To consolidate and amend the Laws relating to Procedure in the Court of Session in Scotland, and in Appeals to the House of Lords.

(*Prepared and brought in by The Lord Advocate and Sir George Grey.*)

(*Price* 1*s.* 1*d.*)

Ordered, by The House of Commons, *to be Printed* 9 *July* 1863.

[Bill 221.]

Under 14 *oz.*

855

A

BILL

INTITULED

An Act for removing Doubts as to the Powers of the Courts of the Church of Scotland, and extending the Powers of the said Courts.

WHEREAS it would much conduce to the Interests of Religion were Ministers of Parishes against whom a Libel has been found relevant for alleged immoral Conduct, or for alleged Error in Doctrine, to abstain from exercising Ministerial Functions until the said Libel has been disposed of by final Sentence; but Doubts exist whether the Right of the Courts of the Church of Scotland to require and enjoin Ministers of Parishes so to abstain from Ministerial Functions in such Circumstances may not be liable to legal Impediment, and it is desirable to remove such Doubts: And whereas it is expedient to declare the said Right, and farther to declare the Right of the Presbyteries of the said Church to make Provision for supplying the Ordinances of Religion in any Parish where the said Ordinances have ceased to be performed by the Minister thereof: Be it therefore declared and enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. When-

When a Libel found relevant against a Minister, Presbytery may require and enjoin him to abstain from the Discharge of his Functions.

1. Whenever any Presbytery or other Court of the Church of Scotland shall have found a Libel relevant, charging the Minister of any Parish with immoral Conduct or with Error in Doctrine, and shall have resolved to proceed to a Proof of the said Libel, it is hereby declared and enacted that it is and shall be held to be the Right of the said Presbytery to pronounce a Deliverance requiring and enjoining such Minister to abstain from the Exercise and Discharge of all Ministerial Functions of his Office as Minister of the Parish until the Libel shall have been fully investigated and finally disposed of; and in the event of an Appeal against such Deliverance the same shall continue in force until the same shall have been recalled by the Court of Appeal; and the Ordinances of Religion in the said Parish shall, so long as such Deliverance is unrecalled, be administered in the same Way as if the Parish were vacant by the Decease of the Minister thereof: Provided always, that nothing herein contained shall affect the Right of such Minister to his Stipend.

When a Minister has become insane, Presbytery to appoint an Assistant.

2. When, in the course of any Judicial Process affecting the Status of a Minister, or on the Representation of any Party having Interest, it has been established to the Satisfaction of a Presbytery or other Superior Court of the Church that the Minister of any Parish is insane, and thereby disabled from discharging the Duties of his Office, it is hereby further declared and enacted, that it is and shall be the Right of the Presbytery, unless an Arrangement for the Purposes after mentioned shall have been made on behalf of the said Minister to the Satisfaction of the Presbytery, to appoint a qualified Assistant to perform the Duties of the Charge until the said Minister shall be enabled to resume the same, or until the Parish shall be declared vacant, and at the same Time to apportion and fix, by their Deliverance appointing such Assistant, an Allowance out of the Stipend not exceeding One Half of the whole Proceeds of the Benefice, and which shall be payable so long as such Assistant shall hold and continue to act on his Appointment by the Presbytery; and such Deliverance, when duly intimated to the Heritors or others liable in Payment of the Stipend, shall be equivalent to a legal and completed Assignation by the Minister to such Assistant of the Portion of the Stipend specified in the Deliverance.

Provision in case of a Minister being suspended.

3. When, by their final Sentence upon a Libel, a Presbytery or other Church Court shall suspend a Minister from the Discharge of the Duties of his Office for a Term specified in the said Sentence, it is hereby further declared and enacted, that it is and shall be held to be the Right of the Presbytery to appoint a qualified Assistant to discharge the said Duties, and to apportion and fix an Allowance to such Assistant out of the Stipend not exceeding One Half of the whole

whole Proceeds of the Benefice, and which shall be payable so long as such Assistant shall hold and continue to act on his Appointment by the Presbytery; and such Sentence, when duly intimated to the Heritors or others liable in Payment of the Stipend, shall be equivalent to a legal and completed Assignation by the Minister to such Assistant of the Proportion of the Stipend specified in the Sentence.

Church Court may appoint a Person to dictate the Evidence of Witnesses, or appoint a Shorthand Writer to take it down.

4. Where in any Cause depending before a Presbytery or other Superior Court of the Church a Proof shall have been allowed, it shall be lawful and competent for such Court to appoint a qualified Person being an Advocate, Writer to the Signet, Solicitor before the Supreme Courts, or a Procurator duly entered as a Practitioner in any Sheriff Court in Scotland, of not less than Three Years standing, to sit with them for the Purpose of dictating to the Clerk of Court the Evidence given by the Witnesses examined in the Course of the Proof, and the Oath De fideli administratione officii shall be administered by the Moderator to any Person so appointed; and it shall be lawful and competent for such Court, if it see fit, to appoint the Evidence of the Witnesses examined in the course of such Proof to be taken down by a Writer skilled in Shorthand Writing, to whom the Oath De fideli administratione officii shall be administered; and the said Shorthand Writer shall afterwards, and within such Time as may be fixed by the Court, write out in full the Evidence so taken down by him in Shorthand; and the extended Notes, so written out, certified by the Moderator and Clerk of Court to be correct, shall be the Record of the oral Evidence in the Cause: Provided always, that nothing herein contained shall prevent any Church Court, if it see fit, from taking down and recording the Evidence adduced in any Cause, according to the Form hitherto in use.

Courts of the Church of Scotland.

A

B I L L

INTITULED

An Act for removing Doubts as to the Powers of the Courts of the Church of Scotland, and extending the Powers of the said Courts.

(*Brought from the Lords* 21 *April* 1863.)

Ordered, by The House of Commons, *to be Printed,* 24 *April* 1863.

[Bill 92.]

Under 1 *oz.*

A

B I L L

TO

Grant certain Duties of Customs and Inland Revenue.

Most Gracious Sovereign,

WE Your Majesty's most dutiful and loyal Subjects the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary Supplies to defray Your Majesty's public Expenses, and making an Addition to the public Revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several Rates and Duties herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. There shall be charged, collected, and paid for the Use of Her Majesty, Her Heirs and Successors, the several Rates and Duties of Customs, Excise, and Income Tax respectively specified and contained in the several Schedules marked respectively (A.), (B.), and (C.), to this Act annexed, and there shall be allowed the several Drawbacks specified and contained in the said Schedule (A.), and the said Rates, Duties, and Drawbacks shall respectively take effect at or from the Grant of Duties specified in Schedules annexed.

respective Times, and shall continue to be charged, collected, paid, and allowed for and during the Periods respectively specified or mentioned in that Behalf in this Act or in the said Schedules; and where no Time is so specified for the Commencement thereof, the same shall commence and take effect from and after the *passing of this Act;* and where no Period is so specified or limited for the Duration thereof, the same shall continue to be charged, collected, paid, and allowed respectively until Parliament shall otherwise order; and the said several Schedules shall be deemed to be Part of this Act.

Provisions of former Acts to apply to this Act.

2. All the Powers, Provisions, Clauses, Regulations, Allowances and Exemptions, Forfeitures, Pains and Penalties, contained in or imposed by any Act or Acts, or any Schedule thereto, relating to any Duties or Drawbacks of the same Kind or Description as the several Rates or Duties or Drawbacks granted and allowed by this Act respectively, and in force at the Time of the passing of this Act, and not hereby expressly repealed, or, as regards the Income Tax, in force on the Fifth Day of April One thousand eight hundred and sixty-three (except as herein-after provided), shall respectively be in full Force and Effect with respect to the said Rates, Duties, and Drawbacks by this Act granted and allowed respectively, so far as the same are or shall be applicable, in all Cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned Rates and Duties and the Allowance and Payment of the said Drawbacks respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express Provisions of this Act, as fully and effectually to all Intents and Purposes as if the same had been herein repeated and specially enacted, mutatis mutandis, with reference to the Rates, Duties, and Drawbacks by this Act granted and allowed respectively: Provided always, that nothing herein contained shall be construed to continue or revive the Provisions contained in Section Three of the Act passed in the Twenty-third and Twenty-fourth Years of Her Majesty's Reign, Chapter Fourteen, or the Forty-second Section of the Act passed in the Twenty-fifth and Twenty-sixth Years of Her Majesty's Reign, Chapter Twenty-two, directing that the Sum charged as the annual Value or Amount of any Property, Profits, or Gains in the Assessment of Income Tax for any former Year shall be taken as the annual Value or Amount of such Property, Profits, or Gains for any subsequent Year.

Certain Exemptions not continued ex-

3. Provided always, That nothing herein contained shall extend or be construed to extend to continue or revive any Allowance specified in Number Six of Section Sixty of the Act passed in the Fifth and Sixth

Sixth Years of Her Majesty's Reign, Chapter Thirty-five, except in the following Cases, (that is to say,) for the Duties charged on any College or Hall in any University, or on any Hospital, public School, or Almshouse, in respect of the public Buildings, Offices, and Premises belonging to such College or Hall, public School, and Almshouse respectively, or on any Building the Property of any Literary or Scientific Institution, used solely as in the said Rule, Number Six, is mentioned; or to continue or revive any Exemption specified in the Third Rule of Schedule (C.) of Section Eighty-eight of the last-mentioned Act, except for the Stock or Dividends in the Names of any Trustees applicable solely to the Repairs of any Cathedral College, Church, or Chapel, or any Building used solely for the Purpose of Divine Worship, and in so far as the same shall be applied to such Purpose. cept as herein mentioned.

4. No Deduction or Abatement for or on account of Income Tax shall be made by any Trustees for Charitable Purposes from any Rent or Profit of Lands, Tenements, or Hereditaments, or from any Annuity or other annual Sum on Payment thereof by such Trustees to any Person the Object of their Trust, provided the said Trustees shall have any other Fund out of which the Income Tax in respect of such Rent, Profit, Annuity, or other annual Sum may lawfully be paid, and provided always that no Person who shall first become entitled to any such Rent or Profit, Annuity or other such annual Sum as aforesaid at any Time after the passing of this Act shall be entitled to any Repayment or Abatement of the said Income Tax by reason of there not being any other Fund out of which the said Income Tax can lawfully be paid as herein-before directed. As to Payment of Income Tax by Trustees for Charitable Purposes. Persons becoming entitled after passing of Act to Rents, &c. under Charitable Trusts not to be allowed Repayment of Income Tax.

5. The Exemption from Income Tax granted by the said Acts relating to the Income Tax to Persons whose Incomes are respectively less than One hundred Pounds a Year shall be and is hereby continued; and in lieu of the Relief granted by the Twenty-eighth Section of the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, to Persons whose respective Incomes, although amounting to One hundred Pounds or upwards, are less respectively than One hundred and fifty Pounds a Year, the following Relief or Abatement shall be given or made to Persons whose Incomes are less respectively than Two hundred Pounds a Year; (that is to say,) any Person who shall be assessed or charged to any of the Duties of Income Tax granted by this Act, or who shall have paid the same either by Deduction or otherwise, and who shall claim and prove in the Manner prescribed by the said Acts that his total Income from every Source, although amounting to One hundred Pounds or upwards, is less than Two hundred Pounds for the Year of Assessment of his Profits or Gains shall be entitled to be relieved Exemption of Persons whose Income is under 100*l.*, and Abatement to those whose Income is under 200*l.* a year respectively.

from so much of the said Duties assessed upon or paid by him as an Assessment or Charge of the said Duties upon Sixty Pounds of his Income would amount unto, and such Relief shall be given either by Reduction or Abatement of the Assessment upon such Person, or by the Repayment to him of so much of the Excess as he shall have paid, or by both of those Means, as the Case may require.

Certain Customs Duties to cease.

6. On and after the First Day of July One thousand eight hundred and sixty-three, the several Duties specified and contained in Schedule (D.) to this Act annexed shall cease and shall be no longer charged, levied, or paid respectively; and on and after the said First Day of July One thousand eight hundred and sixty-three the several Parts of Acts specified and enumerated in the said Schedule (D.) shall be and the same are hereby repealed.

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SCHEDULES.

SCHEDULE (A.)

Containing the Rates and Duties of Customs granted, and the Drawbacks allowed on the following Articles by this Act.

Duties now charged on Sugar, &c. continued until 1st August 1864.

The Duties of Customs now charged on the Articles next mentioned shall continue to be levied and charged on and after the *First Day of July One thousand eight hundred and sixty-three* until the *First Day of August One thousand eight hundred and sixty-four* on Importation into Great Britain and Ireland; that is to say,

		£	s.	d.
Almonds, Paste of	the lb.	0	0	2
Cherries, dried	the lb.	0	0	2
Comfits, dry	the lb.	0	0	2
Confectionery	the lb.	0	0	2
Ginger, preserved	the lb.	0	0	2
Marmalade	the lb.	0	0	2
Plums, preserved in Sugar	the lb.	0	0	2
Succades, including all Fruits and Vegetables, preserved in Sugar, not otherwise enumerated	the lb.	0	0	2
Sugar, viz.:				
Candy, Brown or White, Refined Sugar, or Sugar rendered by any Process equal in Quality thereto	the Cwt.	0	18	4
White Clayed Sugar or Sugar rendered by any Process equal in Quality to White Clayed not being refined or equal in Quality to refined	the Cwt.	0	16	0
Yellow Muscovado and Brown Clayed Sugar, or Sugar rendered by any Process equal in Quality to Yellow Muscovado or Brown Clayed, and not equal to White Clayed	the Cwt.	0	13	10
Brown Muscovado or any other Sugar, not being equal in Quality to Yellow Muscovado or Brown Clayed Sugar	the Cwt.	0	12	8
Cane Juice	the Cwt.	0	10	4
Molasses	the Cwt.	0	5	0

The following Drawbacks shall be allowed on Exportation to Foreign Parts, or on Removal to the Isle of Man for Consumption there, of the several Descriptions of Refined Sugar herein-after mentioned, on and after the *First*

Day of July One thousand eight hundred and sixty-three until the *First Day of August One thousand eight hundred and sixty-four;* that is to say,—

	£	s.	d.
Upon Refined Sugar in Loaf, complete or whole, or Lumps, duly refined, having been perfectly clarified and thoroughly dried in the Stove, and being of an uniform Whiteness throughout, or Sugar Candy, or Sugar refined by the Centrifugal Machine or by any other Process, and not in any way inferior to the Export Standard, No. 3, approved by the Lords of the Treasury, for every Cwt. - - - -	0	17	2
Upon such Refined Sugar, already described, if pounded, crushed, or broken in a Warehouse approved by the Commissioners of Customs, such Sugar having been there first inspected by the Officers of Customs in Lumps or Loaves, as if for immediate Shipment, and then packed for Exportation in the Presence of such Officers, and at the Expense of the Exporters, for every Cwt. - - - - - -	0	17	2
Upon Refined Sugar unstoved, pounded, crushed, or broken, and not in any way inferior to the Export Standard Sample, No. 1, approved by the Lords of the Treasury, and which shall not contain more than Five per Centum Moisture over and above what the same would contain if thoroughly dried in the Stove, for every Cwt. - - - -	0	16	4
Upon Bastard or Refined Sugar unstoved, broken in Pieces, or being ground, powdered, or crushed, not in any way inferior to the Export Standard Sample, No. 2, approved by the Lords of the Treasury, for every Cwt. - - - -	0	15	1
Upon Bastard or Refined Sugar, being inferior in Quality to the said Export Standard Sample, No. 2, for every Cwt. -	0	12	8

Duties on Chicory and Tea.

In lieu of the Duties of Customs now charged on the Articles under mentioned, the following Duties of Customs shall on and after the *Seventeenth Day of April One thousand eight hundred and sixty-three* be charged thereon on Importation into Great Britain and Ireland; that is to say,—

		£	s.	d.
Chicory or any other Vegetable Matter applicable to the Uses of Chicory or Coffee, viz.:				
Raw, or Kiln dried - - - -	the Cwt.	1	6	6

On and after the *Twenty-fifth Day of April One thousand eight hundred and sixty-three* until the *First Day of August One thousand eight hundred and sixty-four:*

		£	s.	d.
Tea - - - - - -	the lb.	0	1	0

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SCHEDULE (B.)

Containing the Duties of Excise granted by this Act.

Chicory.

For and upon all Chicory or any Vegetable Matter applicable to the Uses of Chicory or Coffee, grown in the United Kingdom :

For every Hundredweight thereof, raw or Kiln dried, the Excise Duty of Twenty-four Shillings and Threepence, and so in proportion for any greater or less Quantity than a Hundredweight,—

In lieu of the Excise Duty now chargeable on Chicory or such Vegetable Matter as aforesaid.

SCHEDULE (C.)

Containing the Rates and Duties of Income Tax granted by this Act.

For *One Year,* commencing on the *Sixth Day of April One thousand eight hundred and sixty-three,* for and in respect of all Property, Profits, and Gains mentioned or described as chargeable in the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, the following Rates and Duties ; (that is to say,)

For every Twenty Shillings of the annual Value or Amount of all such Property, Profits, and Gains, (except those chargeable under Schedule (B.) of the said Act,) the Rate or Duty of Sevenpence:

And for and in respect of the Occupation of Lands, Tenements, Hereditaments, and Heritages chargeable under Schedule (B.) of the said Act, for every Twenty Shillings of the annual Value thereof,—

In England, the Rate of Duty of Threepence Halfpenny;

And in Scotland and Ireland respectively, the Rate or Duty of Twopence Halfpenny.

SCHEDULE (D.)

Specifying certain Duties of Customs which are to cease, and Parts of Acts which are repealed by this Act.

On and after the *First Day of July One thousand eight hundred and sixty-three,* the several Duties herein mentioned shall cease and determine, and the several Parts of Acts respectively specified and enumerated herein shall be, and the same are hereby repealed; that is to say,

So much of the Act Twenty-three and Twenty-four Victoria, Chapter One hundred and ten, relating to Rates and Charges on Importation, as directs that there shall be charged (irrespective of any Duties of Customs or other Rates or Charges payable by Law) upon the Importation of all Goods into Great Britain and Ireland, except Corn, Grain, and Flour, and Timber and Wood Goods, and Goods in Transit exported under Bond, and Goods imported for Exportation in the same Ship, provided they be so reported, the respective Rates and Charges following, as defined and required by the Provisions of "The Customs Tariff Amendment Act, 1860," and under and subject thereto; that is to say,—

	s.	*d.*
Goods in Packages or Parcels, per Package or Parcel, or other Unit of Entry - - - - - - - -	0	1
Goods in Bulk, by Weight, Measure, or Number, for each Unit of Entry - - - - - - - -	0	1
Animals, per Head, or other Unit of Entry - - -	0	1

Also so much of said last-mentioned Act as relates to Charges on Goods exported, as directs that there shall be charged (irrespective of any Duties of Customs, or other Rates or Charges payable by Law,) upon every Customs Bill of Lading on the Exportation of any Goods from Great Britain and Ireland, as required by the Provisions of "The Customs Amendment Act, 1860," and under and subject thereto, 1*s.* 6*d.*

Sections Sixteen, Seventeen, Eighteen, and Nineteen of the Act of Twenty-three Victoria, Chapter Twenty-two.

Section Twenty of the Act of Twenty-three Victoria, Chapter Twenty-two, except so much thereof as requires the Delivery at the Time of Entry of Particulars, in the Manner therein mentioned of Goods free of Duties of Customs on Importation.

Section Twenty-one of the Act of Twenty-three Victoria, Chapter Twenty-two, except so much thereof as constitutes the Shipping Bill, or the Bill of Lading, as the Case may be, in the Manner and with the Particulars thereby required, the Entry outwards of Goods exported in respect of which no Bond is required.

Sections Twenty-three and Twenty-four, and Sections Twenty-seven to Thirty-five inclusive, of the Act of Twenty-three Victoria, Chapter Twenty-two.

Section Five of the Act of Twenty-three and Twenty-four Victoria, Chapter One hundred and ten.

Customs and Inland Revenue.

A

BILL

To grant certain Duties of Customs and Inland Revenue.

(*Prepared and brought in by Mr. Massey, the Chancellor of the Exchequer, and Lord Palmerston.*)

Ordered, by The House of Commons, *to be Printed,* 24 *April* 1863.

[Bill 91.]

Under 2 oz.